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# Title 22

## CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT

### Part I. Corrections

#### Chapter 1. Secretary's Office

##### §101. Records of Adult Offenders and Ex-Offenders

A. Purpose. To establish a formal policy regarding access to records of offenders and ex-offenders.

B. To Whom This Regulation Applies. This regulation is applicable to all persons employed by the Department of Corrections.

C. Department's Access to Information and Records of Other Agencies

1. R.S. 15:840.1 provides that during the course of any investigation which the department is authorized by law to conduct, or which is necessary for the rehabilitation of persons in the custody of the department, the department shall have access to information and records under the control of any state or local agency which is reasonably related to the rehabilitation of the individual.

2. All information obtained on an offender shall be confidential and shall not be disclosed to anyone except in accordance with this regulation.

D. General. Before the release of any information in department records, it is necessary to first determine whether the individual or agency has a right to know the information and also whether they have a need to know. The following paragraphs of this regulation spell out who has a right to know the information contained in department files and the extent of that right. In determining whether an individual or agency has a need to know the information requested, the request should be examined to see if the request is legitimately and properly related to the individual's or agency's responsibilities and whether the information will be used for the purpose intended. Examples:

1. A secretary working for the Department of Corrections has a right to know information contained in department files (see ' 101.F.1.g), however, if she wishes to examine these records for personal reasons, she would not have a legitimate need to know, because her requested access is not related to the purpose of her employment.

2. A state senator has a right to read department records relating to the discharge of his duties as a state official (see ' 101.F.3.b). If, however, he made the request in his role as a private attorney, he would not have a legitimate need to know under this Section.

E. Form of Requests. Requests for information may be made verbally except where otherwise noted. However, any request for the ongoing furnishings of records or the furnishing of large masses of records to a particular agency

or individual must be submitted in writing to the director for approval. The requesting individual or agency must certify that they will not release the information to any other individual or agency.

##### F. Release of Nonmedical Information and Records

1. Information on a particular individual may be released without special authorization to the following:

- a. board of parole;
- b. board of pardons;
- c. governor;
- d. sentencing judge;
- e. district attorneys;
- f. publicly funded law enforcement agencies;
- g. personnel of the Department of Corrections, including legal representatives and student workers;
- h. court officers with subpoenas specifying the information desired.

2. Fingerprints, photographs, and information pertaining to arrests and disposition of criminal charges may be released to local, state or federal criminal justice agencies without special authorization.

3. Upon approval by the director or his designated representative, information may be read, but not copied, by the following, under certain conditions as set forth in R.S. 15:574.12:

- a. social service agencies assisting in the treatment of the offender or ex-offender;
- b. appropriate governmental agencies or officials;
- c. approved researchers.

4. The director or his designated representative may also, under certain conditions, approve the selective reading of information to private citizens or organizations aiding in rehabilitation or directly involved in hiring of the offender or ex-offender.

5. Statistical information and information of a general nature (age, physical characteristics, offense, date of conviction, length of sentence and discharge date) requested on a specifically named offender or ex-offender may be released to the general public, including members of the press at any time.

##### G. Release of Medical Records (R.S. 44:7)

1. Medical charts, records, reports, documents and other memoranda prepared by physicians, surgeons, psychiatrists, nurses and employees of the department may be released to the following when they are legitimately and properly interested in the disease or in the condition of the patient, without consent of the patient:

- a. board of parole;
- b. board of pardons;
- c. governor;
- d. personnel of the Department of Corrections, including legal representatives and student workers;
- e. doctors;
- f. hospitals, clinics and nursing homes;
- g. courts, whenever the past or present condition is at issue or relevant in any judicial proceeding.

2. Medical records, except psychiatric reports, shall be available to anyone having a legitimate interest, provided the patient or, in case of his death, his legal heir or next of kin has consented in writing to their release.

#### H. Subpoenaed Records (R.S. 15:574.12)

1. Whenever any record covered by this Section is subpoenaed (except in the case of medical records for which a release has been obtained), the pertinent records shall be submitted to the appropriate court for a ruling as to whether the information should be made available to the person who caused the subpoena to be issued.

2. The court shall examine the information in private and shall withhold the information should it find:

- a. that the information is not relevant to the proceedings; or
- b. that the information was derived from communications which were obviously made in the confidence that they would not be disclosed; or
- c. that confidentiality is essential to future useful relations between the source and the recorder of the information.

I. Fees. All persons or organizations, except state or federal agencies or officials, requesting copies of records, shall be charged 50 cents for each page copied.

J. Penalties. Failure to abide by this regulation may result in dismissal from the Department of Corrections or in refusal to comply with future requests for information.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:840.1, R.S. 15:574.12, and R.S. 44:7.

HISTORICAL NOTE: Promulgated by the Department of Corrections, Office of the Director, LR 2:107 (April 1976).

### **§103. Death Penalty**

A. Purpose. To set forth procedures to be followed for the lethal injection of those individuals sentenced to death.

B. Responsibility. Assistant secretary/Office of Adult Services and the wardens of the Louisiana State Penitentiary and the Louisiana Correctional Institute for Women.

C. Incarceration Prior to Execution. Male inmates sentenced to death shall be incarcerated at the Louisiana State Penitentiary at Angola, Louisiana. Female inmates sentenced to death shall be incarcerated at the Louisiana Correctional Institute for Women at St. Gabriel, Louisiana. Until the time for execution, the warden shall incarcerate the inmate in a manner affording maximum protection to the general public, the employees of the department, and the security of the institution. Female inmates shall be transported to the Louisiana State Penitentiary on the day immediately prior to the execution date.

#### D. Visits

1. During the final 72 hours before the scheduled execution, the warden may approve special visits for the condemned inmate.

2. All visits will terminate by 3:00 p.m. on the day of the execution except visits with a priest, minister, religious advisor, or attorney which will terminate at the direction of the Warden or his designee.

#### E. Media Access

1. Pursuant to the provisions of Department Regulation No. C-01-013, the media may contact the Warden's office to request interviews. If the Warden, inmate, and attorney (if represented by counsel) consent, the interview shall be scheduled for a time convenient to the institution.

2. Should the demand for interviews be great, the warden may set a day and time for all interviews to be conducted and may specify whether interviews will be done individually or in "press conference" fashion.

#### F. Pre-Execution Activities

1. The warden shall select appropriate areas to serve as a press room and for any mobile press units.

2. The execution room shall be off limits to unauthorized inmates and employees from 8 a.m. on the day preceding the execution until such time after the execution as the warden deems appropriate. The execution room shall also be off limits to the public and press five days before the execution until such time after the execution as the warden deems appropriate.

3. All persons selected as witnesses will sign copies of the witness agreement prior to being transported to the execution room.

G Execution Time and Place. The execution shall take place at the Louisiana State Penitentiary between the hours of 6:00 p.m. and 11:59 p.m. [R.S. 15:570(C)].

#### H. Witnesses

1. The execution shall take place in the presence of the following witnesses:

- a. the warden of the Louisiana State Penitentiary or designee;
- b. the coroner of West Feliciana Parish or deputy;
- c. a physician chosen by the warden;
- d. a competent person selected by the warden to administer the lethal injection; and
- e. a priest, minister, or religious advisor, *if the inmate so requests*.

2. Not less than five, nor more than seven other witnesses are required by law to be present [R.S. 15:570(A)]. These witnesses will be selected as follows:

- a. three witnesses will be members of the news media;
  - i. a representative from the Associated Press;
  - ii. a representative, selected from the media persons requesting to be present, from the parish where the crime was committed; and
  - iii. one representative selected from all other media persons requesting to be present;
  - iv. these witnesses must agree to act as pool reporters for the remainder of the media present and meet with all media representatives immediately following the execution;
- b. the remaining witnesses will be selected by the secretary from persons whom he feels have a legitimate interest in being present;
- c. victim relationship witnesses are authorized to attend the execution [R.S. 15:570(D)];
  - i. the number of victim relationship witnesses may be limited to two. If more than two victim relationship witnesses desire to attend the execution, the secretary is authorized to select from the interested parties the two victim-relationship witnesses who will be authorized to attend;

- ii. at least ten days prior to the execution, the Secretary shall give either written or verbal notice, (followed by written notice placed in the United States mail within five days thereafter) of the date and time of execution to the victim's parents, or guardian, spouse and any adult children who have indicated to the Secretary that they desire such notice. The named parties shall be given the option of attending the execution and shall, within three days of their receipt of the notification, notify, either verbally or in writing, the Secretary's office of their intention to attend.

- d. all witnesses must be residents of the state of Louisiana and over 18 years of age; and all must agree to sign the report of the execution [R.S. 15:570-571];

- e. no cameras or recording devices, either audio or video, will be permitted in the execution room.

#### I. Procedures

1. The witnesses will enter the witness room where they will receive a copy of the inmate's written last statement, if a written statement is issued.

2. The inmate will then be taken to the lethal injection room by the escorting officers. Once in the room, the inmate will be afforded the opportunity to make a last verbal statement, if he so desires. He will then be assisted onto the lethal injection table and properly secured to the table by the officers. Once the officers exit the room, the warden will close the curtain to the witness room and signal the I.V. technician to enter. The I.V. technician will appropriately prepare the inmate for execution and exit the room. The warden will reopen the witness room curtain.

3. The person designated by the warden and at the warden's direction, will then administer, by intravenous injection, a substance or substances, in a lethal quantity, into the body of the inmate until he is deceased.

4. At the conclusion of the execution, the coroner or his deputy shall pronounce the inmate dead. The deceased shall then be immediately taken to an awaiting ambulance for transportation to a place designated by the next of kin, or in accordance with other arrangements made prior to the execution.

5. The warden will make a written report reciting the manner and date of the execution which he and all of the witnesses will sign. The report shall be filed with the clerk of court in the parish where the sentence was originally imposed [R.S. 15:571].

6. No employee, including employee witnesses to the execution, except the secretary or the warden or their designee, shall communicate with the press regarding any aspect of the execution, except as required by law.

#### AGREEMENT BY WITNESS TO EXECUTION

I, \_\_\_\_\_, a person of full age and majority, and a citizen of the state of Louisiana, hereby agree to the following conditions precedent to being a witness to the execution of a sentence of death at Louisiana State Penitentiary, Angola, LA:

- 1. I agree that my presence at the execution is voluntary.
- 2. I agree to sign the report of the execution, as required by law.
- 3. I agree to comply with all rules and regulations of the Department of Public Safety and Corrections and the Louisiana State Penitentiary during the course of the proceedings leading up to, during, and after the completion of the execution.
- 4. I agree that I will not electronically record or photograph any activities while I am present in the lethal injection room.
- 5. I agree to submit to a search of my person before and after the execution, if requested to do so by the warden of the Louisiana State Penitentiary.
- 6. If I am a member of the press selected as a witness to the execution, I agree to act as a pool reporter for the media representatives not present at the execution, and I agree to meet with all media representatives present at the penitentiary immediately after the execution.
- 7. If I am an employee of the Department of Public Safety and Corrections, I agree that I will make no public statements about the execution without prior approval of the warden of the Louisiana State Penitentiary.

I have read the above agreement, understand it, and have signed it in the presence of the listed witnesses on this date \_\_\_\_\_.

(Day, Month, Year)

WITNESSES TO SIGNATURE: \_\_\_\_\_

Selected Witness to Execution

**AUTHORITY NOTE:** Promulgated in accordance with LSA-R.S. 15:567-15:571 (as amended by Act Number 717 of the 1990 Regular Session of the Louisiana Legislature and by Act Number 159 of the 1991 Regular Session of the Louisiana Legislature), *Garret v. Estelle* 556 F.2d 1274 (5th Cir. 1977), is amending by Act Number 1260 of the 1997 regular session of the Legislature.

**HISTORICAL NOTE:** Promulgated by the Department of Corrections, Office of the Secretary, LR 6:10 (January 1980), amended LR 7:177 (April 1981), amended by the Department of Public Safety and Corrections, Corrections Services, LR 17:202 (February 1991), LR 18:77 (January 1992), LR 24:342 (February 1998), LR 25:2410 (December 1999).

### **§105. Regulation of Air Traffic**

A. Purpose. The purpose of this regulation is to establish the policy of the Department of Public Safety and Corrections, Corrections Services, with regard to air traffic at each adult correctional institution.

B. Responsibility. It is the responsibility of the warden of each adult correctional institution to ensure compliance with this regulation and to advise their respective employees who are affected by the contents. Each warden is responsible for working with the control center of the institution to ensure proper implementation.

C. General. It is the policy of Corrections Services to monitor all incoming and outgoing aircraft to and from the institutions.

#### **D. Procedures**

1. Individuals who have reason to come to the institutions via aircraft must request permission and receive authorization in advance, by telephone or in writing, to land at the institution, and specifically to land on the airstrip at the Louisiana State Penitentiary.

2. The request will be directed to the warden's office during regular office hours Monday through Friday. Calls received after hours or on weekends or holidays will be handled by the duty warden.

3. The individual requesting permission to land must provide the following information:

- a. reason for coming to the institution;
- b. date and expected time of arrival;
- c. number and names of people aboard aircraft;
- d. type of aircraft, color and registration number.

4. The warden's office will notify the control center of approved air traffic. The control center will notify the prison towers to inform the officer of the incoming air traffic, the expected time of arrival and description of the aircraft. The

tower officer will in turn inform the control center when the aircraft arrives. The control center will then dispatch roving security to meet the incoming aircraft and to verify the identification of the occupants and provide ground transportation when necessary.

5. A log will be maintained by roving security of all aircraft that land at or depart from the institution. This log will contain the date, time of arrival, type of aircraft, color, registration number and the names of the passengers.

6. Low flying aircraft attempting to land anywhere within any of the institutions will be reported to the control center immediately. The control center will notify roving security and other appropriate personnel.

7. Each warden is responsible for developing written procedures for handling unauthorized and/or emergency landing situations, and for securing inmates in the immediate area.

8. Each warden shall develop a procedure for the implementation of this regulation and submit the procedure to the secretary for approval.

E. The effective date of this regulation is August 20, 1990.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 15:823.

**HISTORICAL NOTE:** Promulgated by the Department of Public Safety and Corrections, Corrections Services, LR 16:693 (August 1990).

## **Chapter 2. Personnel**

### **§201. Nepotism**

A. Purpose. The purpose of this regulation is to establish a formal policy on nepotism in conformity with R.S. 42:1119 for all employees of Corrections Services.

B. Responsibility. It is the responsibility of the secretary, deputy secretary, undersecretary, assistant secretaries and all institution, division, unit and section heads to ensure compliance with this regulation and to advise their respective employees who are affected by the contents.

C. General. It is the policy of the Department of Public Safety and Corrections, Corrections Services, to comply with the provisions of the statutes by monitoring and evaluating the kinship of current and prospective employees.

#### **D. Definitions**

**Agency Head** Cthe chief officer of a department, office, division, agency, commission, board, committee, or other organizational unit of a governmental entity.

**Immediate Family** Cthe children, brothers, sisters, parents, spouse, and parents of the spouse.

**Public Servant** Ca public employee or an elected official.

#### **E. Procedures**

1. Kinship will be monitored and evaluated to ensure that, where reasonably possible, no public servant, serving as



an agency head, employs any member of his immediate family to work in his work unit. (Agency heads include not only the secretary, wardens, and superintendents, but also division, unit and section heads or anyone who is in charge of a work unit, i.e. a person who can hire, fire, promote, and supervise workers within a unit.)

2. All new employees will complete the "Relatives Employed" form along with other required employment forms (see Unit Personnel Procedures - Processing and Appointment SF-1).

3. All current employees will report applicable changes to their immediate supervisor and human resource director/coordinator and will complete an updated "Relatives Employed" form.

4. All "Relatives Employed" forms will be reviewed and evaluated for policy conformance by the human resource director/coordinator of each unit. Nonconformance and/or possibilities of nonconformance will be immediately reported, in writing, to the warden/superintendent/unit head.

5. The warden/superintendent/unit head will notify the secretary in writing of the situation. The secretary will take appropriate action based on the department's operational needs within legal and ethical determinations.

6. All "Relatives Employed" forms will be maintained in the unit and central personnel files.

#### F. Exceptions

1. This policy will not affect any Department of Public Safety and Corrections, Corrections Services' employee hired prior to the effective date of the statute April 1, 1980.

2. This policy will not affect an employee whose immediate family member becomes an agency head as long as the employee has been employed by this department for at least one year prior to the immediate family member's appointment to the agency head position.

G The effective date of this regulation is June 20, 1990.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1119.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, LR 16:537 (June 1990).

### §203. Drug-Free Workplace

A. Purpose. To provide a comprehensive program of substance abuse education and to establish guidelines for employee drug/alcohol testing.

B. Applicability. All Employees of Corrections Services. The Deputy Secretary, Undersecretary, Assistant Secretaries and each Unit Head are responsible for conveying the contents of this regulation to all concerned.

#### C. Definitions

*CAP-FUDT Laboratory* A laboratory certified by the College of American Pathologists for forensic urine drug testing.

*Custodian of Records* Staff person responsible for the direct accountability of drug test results.

*Drug Testing* For the purpose of this regulation, drug testing programs will generally be comprised of two testing components preliminary analysis; and formal testing. The application of formal testing may be contingent upon the results of the preliminary analysis. Alcohol testing consists only of administering the approved test and replicating any positive results.

*Employee* Any individual employed by or appointed to a position with the Louisiana Department of Public Safety and Corrections, Corrections Services (including student workers and temporary appointments) or by an outside agency or provider who works in an institution or division or any individual under contract to the Louisiana Department of Public Safety and Corrections, Corrections Services who works in an institution or division. (This does not necessarily confer "employment" status on independent contractors or employees of outside agencies, but serves to define a class of people who are subject to participation in the Drug-Free Workplace Program.)

*Formal Testing* Drug testing conducted by a CAP-FUDT or SAMSHA certified laboratory which usually follows a positive result on a preliminary analysis for the presence of drugs.

*Inmate* Anyone committed to the Department, whether as an adult or juvenile.

*Preliminary Analysis* The first analytical procedure to detect the presence of drugs or metabolites using approved drug testing instruments. (See §203.H.1 for additional information.) The results of the preliminary analysis are to be used solely to indicate the need for additional formal testing, except for those who are being tested for pre-employment purposes. In this case, when the preliminary analysis is positive, it will be sufficient cause to either remove the prospective employee from consideration for employment or appointment or be cause for conducting formal testing. If formal testing is conducted and the result is positive, then this shall be cause for the prospective employee's elimination from consideration for employment or appointment.

*Safety/Security Sensitive Position* Any job which directly or indirectly affects the safety and security of others. For the purpose of this regulation, safety/security sensitive positions are those which involve direct contact with inmates, offenders and persons under supervision and those having access to confidential information relative to the care, confinement or supervision of inmates, offenders and persons under supervision. All positions within the Department are considered to be safety/security sensitive positions, including those that may require or authorize access to a prison or an incarcerated individual, those with duties that may require or authorize carrying a firearm, those that may require instructing or supervising any person to operate or maintain, or that may require or authorize

operating or maintaining, any heavy equipment or machinery and those that may require or authorize the operation or maintenance of a public vehicle, or the supervision of such an employee.

*SAMSHA Certified Laboratory* A laboratory certified by the Substance Abuse and Mental Health Services Administration for forensic urine drug testing.

*Unit Head* Refers to the head of each operational unit.

D. Policy. Substance abuse is a major contributor to criminal activity and is particularly detrimental to our overall correctional mission in providing for the safety of employees and the public. Staff who engage in substance abuse are less likely to enforce policies and procedures effectively to control or to prevent illicit drug and alcohol use by other employees and inmates. Therefore, it is the Secretary's policy to promote increased employee awareness of substance abuse and to achieve and maintain a workplace free of drugs and alcohol.

E. General. Each Unit Head is responsible for implementation of a substance abuse education program that requires compliance with this regulation. Each employee is responsible for refraining from illegal use, possession, sale or manufacture of controlled substances, and from reporting to work or working while under the influence of or impaired by alcohol or drugs.

#### F. Type of Testing

1. Pre-Employment. Drug testing will be conducted prior to employment. (See §203.C.7 for additional information.)

2. Reasonable Suspicion/Probable Cause. Reasonable suspicion/probable cause screening and subsequent testing, as appropriate, may be based on:

a. observable phenomena, such as direct observation of drug use or possession and/or the physical symptoms of being under the influence of a drug or alcohol or when the odor of alcohol, marijuana smoke, or other substance, as appropriate, is present;

b. a pattern of abnormal conduct or erratic behavior;

c. arrest or conviction for a drug or alcohol-related offense, or the identification of an employee as the focus of a criminal investigation into illegal drug possession, use or trafficking (the term "trafficking" shall also mean "distribution");

d. information provided by reliable and credible sources or independently corroborated;

e. newly discovered evidence that the employee tampered with a previous drug or alcohol test;

f. credible allegation or confirmation of involvement in a significant violation of policy in which judgment may have been impaired.

3. Post Accident. An employee shall be subject to drug testing following an accident that occurs during the course and scope of their employment that:

a. involves circumstances leading to a reasonable suspicion of the employee's drug use;

b. results in a fatality; or

c. results or causes the release of hazardous waste as defined in R.S. 30:2173(2) or hazardous materials as defined in R.S. 32:1502(5);

d. an employee who is involved in an accident that results in bodily injury or property damage may be subject to drug testing.

4. Rehabilitative. As a condition for returning to work after participating in a rehabilitation program, an employee must participate in a substance abuse aftercare program and agree to follow-up testing on a random basis for up to 48 months. (Additionally, medical professionals who are in an impaired program or who have a documented substance abuse history must agree to periodic drug/alcohol testing throughout the course of their employment.) Staff testing positive without legitimate explanation whose employment is not terminated are subject to rehabilitative random testing for a period of 48 months.

5. Random. All employees who occupy safety/security sensitive positions (as defined in this regulation) will be subject to random drug testing. On a quarterly basis, a list of social security numbers representing at least 5 percent of a Unit's employees will be selected at random by a computer-generated selection process. This list will be provided to each institution, the Division of Probation and Parole, the Division of Youth Services and Prison Enterprises. (Headquarters employees will be included in the EHCC selection process.)

a. The Office of Information Services will generate the list of social security numbers at the prescribed interval and insure that the lists are distributed directly to the Unit Heads. (Alternatively, if a Unit has a drug-testing services contract with a CAP-FUDT certified or SAMSHA certified laboratory, the production of this list may be included as part of those services.)

b. Unit Heads will establish a policy for matching the social security numbers to employee names, notification of selected employees, recording of test results and other appropriate procedures as needed.

c. All tests will be conducted during the selected employees' work hours; no employee will be called in on his day/night off specifically for the purpose of a random drug test.

d. The conduct of this program will be in accordance with §203.H.

6. Promotion. Drug testing will be conducted prior to promotion.

G Substances to be Tested for. As provided by statute, drug testing may be performed for any of the following classes of drugs: marijuana; opiates; cocaine; amphetamines; and phencyclidine. This does not preclude testing for any other illegal drugs, alcohol, or abused prescription medication.

H. Conduct of the Drug Testing Program. All urine specimens for drug testing shall be collected, stored, and transported pursuant to applicable laws and appropriate safety procedures.

1. The On Trak, Microline, TesTstik, AccuSign DOA series test kits (formerly called AbuSign DOA) Pharmscreen and MCC test kits for drug testing, (five panel only), may be utilized as a preliminary analysis to determine the need for further testing, but may not be used as the basis for any disciplinary action or other adverse action. (Formal testing may be utilized initially in lieu of preliminary analysis when the Unit Head determines that this is the most efficient method.)

## 2. Collection of Specimens

a. Collection of urine specimens may be done on-site by the operational Unit's staff who have received the appropriate training or by outside laboratory personnel or off-site at an outside laboratory.

b. All collection of urine specimens shall be made with regard to privacy of the individual.

c. Direct observation by the same sex of the individual during collection of the urine specimen may be allowed only under the following conditions:

i. there is reason to believe that the individual may alter or substitute the specimen to be provided; or

ii. the individual has provided a urine specimen that falls outside the acceptable temperature range; or

iii. the last urine specimen provided by the individual was verified by a MRO as being adulterated based upon the determinations of the laboratory; or

iv. the person collecting observes conduct indicating an attempt to substitute or adulterate the sample; or

v. the individual has previously been determined to have a urine specimen positive for one or more of the drugs listed in §203.G and is being tested for the purposes of follow-up testing upon or after return to service; or

vi. the type of drug testing is post-accident or reasonable suspicion/ probable cause.

d. Disposal of biohazardous waste will be handled properly in accordance with appropriate safety procedures.

3. Handling and Storage. This component applies to those tests which require the specimen to be preserved for testing and/or transporting to a laboratory.

a. The person obtaining the urine specimen should sign, date, and record the time the specimen was obtained on an accompanying form and turn over to appropriate personnel, who are responsible for labeling and refrigerating/freezing the specimen.

b. The area where the refrigerator containing urine samples is located is to be secured at all times when not in use by appropriate personnel.

c. Only appropriately designated and trained personnel may retrieve the specimen from the refrigerator for testing.

## 4. Medical Review Officers

a. A Medical Review Officer (MRO), who must be a licensed physician, will review all positive formal test results and will obtain a list of medication used by the employee at the time of the test. The MRO will give the employee the opportunity to provide a medical history and/or discuss the test results. In the event of a positive result on the formal test, the MRO will give a copy of the results to the employee and to the Unit Head.

b. It is not mandatory that the MRO review the results of a pre-employment preliminary analysis which results in a positive finding.

## I. Conduct of the Alcohol Testing Program

1. The *Corrections Services Employee Manual, Employee Rule and Disciplinary Procedures*, Rule #11, prohibits employees from reporting for or being on duty under the influence of alcohol or other intoxicants, (or when the odor or effect is noticeable). Towards this end, employees may be required to submit to alcohol testing while on duty under circumstances previously defined in §203.F.2 - 5.

2.a. A portable breathalyzer should be used to determine violation of this regulation. Portable breathalyzers authorized under this regulation are:

i. Alcocheck;

ii. Alco-Sensor III;

iii. Alcotector Mark X; and

iv. Lion Alcometer S-D2.

b. In the event of a positive reading on the portable breathalyzer, a second test must be conducted. In addition, the Intoxilyzer 5000 is also authorized under this regulation as an approved breath-testing device.

3. The alcohol test can be administered only by those persons specifically authorized by the Unit Head and who have received instruction in the use of the testing instrument(s).

J. Training Required. A minimum of one hour of training per year on the effects and consequences of controlled substance abuse on personal health and safety at the workplace and indicators of substance use or abuse is required for all full time employees.

## K. Record Keeping and Reporting Requirements

1. A custodian of records is required to maintain a record of each employee who has submitted to a drug or alcohol test, the date of such test, the name of the person performing the test, the number of tests performed, and a summary of the results of each type of test. This information must be maintained in the employee's confidential medical file.

2. All test results will be retained for five years.

## CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT

3. All information, interviews, reports, statements, memoranda and/or test results received through the Unit's drug testing program are confidential communications, pursuant to R.S. 49:1012 and may not be used or received in evidence, obtained in discovery or disclosed in any public hearing or private proceedings, except in an administrative or disciplinary proceeding or hearing, or civil litigation where drug use by the tested individual is relevant. All such confidential information shall be maintained in a secure manner.

4. Pre-employment and promotional drug testing will be verified through the Department Regulation No. C-05-003 audit process and reported through the Headquarters Human Resources Annual Program Review.

5. A monthly report of drug testing activities will be compiled for submission in the Department Regulation No. C-05-001 report. The report will reflect the categories of testing conducted, the number of tests conducted by category, number of positives, percentage of positives, number of negatives, and type of drug tested. (See §203.K.5, Employee Drug Testing Report Form.)

6. By October 1 of each year, each Unit Business Office will submit a report to the Headquarters Fiscal Office detailing the number of employees affected by the drug testing program, the categories of testing conducted, the associated costs of testing, and the effectiveness of the program. In conjunction with the Undersecretary's Office, the Headquarters Fiscal Office will compile the Department's Annual Drug Testing Report for submission to the Division of Administration by November 1 of each year. (See §203.M.)

L. Violation of this Regulation. The guidelines provided for in the *Corrections Services Employee Manual* for the application of disciplinary penalties will be utilized in the administration of this regulation. Formal testing with positive results may be cause for initiation of disciplinary action. When a positive formal test result, for which appropriate explanation cannot be provided does not result in termination, referral to the "Employee Assistance Program" or other individual or agency equipped to coordinate accessibility to substance abuse education or counseling is appropriate.

### M. Employee Drug Testing Report Form



State of Louisiana  
Employee Drug Testing Report  
Agency:  
Contact:  
Contact Telephone:

*Executive Order MJF 98-38 directs state department, agencies, boards, commissions, and entities of state government to promulgate a written policy which mandates drug testing of employees, appointees, prospective employees, and prospective appointees pursuant to R.S. 49:1001 et seq. A model drug testing policy and a drug education program have been developed to aid each agency in designing their policy and educating their employees about drug testing. Executive Order MJF 98-38 mandates pre-employment/appointment, reasonable suspicion, post accident/injury, and random for safety and security sensitive drug testing. Executive Order MJF 98-38 also requires that each agency submit to the Office of the Governor, through the Commissioner of Administration, a report on its written policy and progress of its drug testing programs on November 1, 1998. This report shall be updated and submitted each year on November 1.*

TYPES OF TESTING:	Total Employees In Position	Number Of Tests	Number Of Positive Results	% Of Positive Results	Number Of Negative Results
Pre-employment/appointment					
Post Accident/Injury					
Random: Safety or Security Sensitive Positions					
Reasonable Suspicion					
Random: Rehabilitation Program					
Other					
TOTAL:					
ASSOCIATED COSTS:					
Collection					
Testing					
MRO					
Random Selector					
Other					

TOTAL:					
NARRATIVE DESCRIPTION OF PROGRAM (please attach policy):					
COMMENTS ON PROGRAM EFFECTIVENESS:					
SUGGESTIONS FOR THE OFFICE OF THE GOVERNOR:					
Please submit report to: Angele D. Davis, Deputy Commissioner of Administration; P.O. Box 94095; Baton Rouge, LA 70804-9095; Fax (225) 342-1057; adavis@doa.state.la.us					

AUTHORITY NOTE: Promulgated in accordance with Executive Order MJF-98-38.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, LR 25:522 (March 1999).

## Chapter 3. Adult and Juvenile Services

### Subchapter A. General

#### §301. Use of Student and Inmate Labor Off Institutional Grounds

A. Purpose. The purpose of this regulation is to state the secretary's policy with respect to the use of student and inmate labor off institutional grounds.

B. To Whom This Regulation Applies. Applicable to all wardens and superintendents within the Department of Public Safety and Corrections.

C. The use of student and inmate labor off institutional grounds is expressly prohibited unless clearly authorized by legislative act or by approval of the secretary of the Department of Public Safety and Corrections.

AUTHORITY NOTE: Adopted in accordance with R.S. 15:832.

HISTORICAL NOTE: Adopted by Department of Public Safety and Corrections, Internal Affairs Section (April 1968).

#### §303. Searches of Visitors

A. Purpose. To establish the secretary's policy and instructions regarding searches of visitors at facilities within the Corrections Services Division of the Department of Public Safety and Corrections.

B. To Whom This Regulation Applies. This regulation sets forth the procedures to be followed when searching any visitor to a correctional facility.

C. Policy. It is the policy of the secretary to halt the flow of contraband into institutions under the jurisdiction of the department. Visitors may be subjected to searches as a condition of their being allowed to visit. Searches shall be conducted in a manner that will avoid unnecessary force, embarrassment, or indignity to the visitor. It is a violation of Louisiana law to bring contraband into a correctional facility. (R.S. 14:402)

D. General. The United States and Louisiana constitutions prohibit unreasonable searches. This regulation

is based on current court decisions regarding searches of visitors. Since a constitutional question is involved, department employees must be especially conscientious about complying with this regulation.

E. References. U.S. Constitution 1st and 14th Amendments, Louisiana Constitution, Article 1, Section 5, *Thorne v. Jones*, 765 F.2d 1270 (U.S. 5th Cir. 1985).

F. Definitions. For the purpose of this regulation, the following definitions shall be applicable:

#### *Personal Searches*

##### a. Pat-Down or Frisk Search

i. A search of a fully-clothed person, conducted by a member of the same sex, conducted for the purpose of discovering contraband.

ii. The person being searched may be required to empty his pockets, purse, or any other area where items may be stored or carried, in order that these items be searched for contraband.

iii. The person being searched may be required to remove any wig or hairpiece he may be wearing. This portion of the search must be conducted by a person of the same sex as the person being searched, in a private place, out of the view of others, in a place where the person being searched will have access to a mirror, in order that they can restore their appearance with the least possible difficulty.

iv. The person being searched may also be required to remove all outerwear (coats, jackets, hats, caps, gloves, shoes, socks, etc.) in order that these items be searched. He may also be required to open his mouth for inspection. The person will not be required to remove articles of clothing which are the person's basic dress (shirts, pants, dress, skirt, etc.). The person conducting the search shall use his hands to touch the person being searched, through his clothes, in such a manner to determine if something is being concealed. If the person conducting the search discovers an unusual lump or bulge, etc., he may order the person being searched to disclose the source of the unusual lump, etc. Failure to comply with this order constitutes reasonable suspicion to conduct a strip search, or refuse the visit.

b. *General Search* A search whereby the visitor is required to remove his clothing down to his underwear, in order that his clothes may be inspected for contraband and his/her person be observed. This search shall be conducted in

a private place, by an employee of the same sex as the visitor, out of the view of persons other than those conducting the search.

c. *Strip Search*Ca visual search of the visitor's nude body, conducted by officers of the same sex as the visitor being searched, in a private place, out of the view of persons other than those conducting the search. The visitor may be required to bend over, squat, turn around, raise his arms, lift the genitals, run his hands through his hair and/or open his mouth for inspection (the foregoing list is exemplary, not exclusive). The visitor's clothing may be thoroughly searched prior to returning them to the visitor.

d. *Visual Body Cavity Search*Ca visual search of the visitor's nude body, conducted by employees of the same sex as the visitor being searched, only pursuant to a search warrant, in a private place, out of the view of persons other than those conducting the search. The visitor may be required to bend over, squat, turn around, raise his arms, lift the genitals, run his hands through his hair and/or open his mouth for inspection (the foregoing list is exemplary, not exclusive). Additionally, a visual search is made of the anal and/or vaginal openings, whereby the person is required to open the cheeks of the buttocks and/or the lips of the vagina.

e. *Body Cavity Search*Ca search of a body cavity, conducted by medical personnel only, and only pursuant to a search warrant.

*Property Searches*Csearches of visitors' personal property brought onto the institutional grounds, including but not limited to vehicles, lunchboxes, purses, coats and jackets, etc. For the purposes of this regulation, "institutional grounds" means any place where offenders may possibly enjoy access, either supervised or unsupervised.

*Reasonable Suspicion*Csuspicion supported by facts and circumstances which lead an employee of ordinary caution to believe that a visitor is secreting contraband in or on his body.

*Visit*Cmay be a visit to an offender, to a part of the institution to see a member of the institutional staff, a tour, to perform any maintenance or construction work, to make a sales call, etc.

*Visitor*Cany nonoffender or nonemployee of Corrections Services who is on institutional grounds for any authorized visit, or who is attempting to gain entry to the grounds for a visit.

#### G When Searches are Permitted

1. *Property Search*. Property searches may be conducted at any time.

2. *Pat-Down Search*. Pat-down searches may be conducted at any time when there is some degree of suspicion directed toward the visitor. Suspicion sufficient to conduct a pat-down search is any degree of articulable suspicion whether objective or subjective; an officer's hunch based on his experience and expertise in this area will suffice. Random pat-down searches are prohibited.

#### 3. General Search; Strip Search

a. These searches may be conducted if there is reasonable suspicion directed toward the specific visitor. Random strip searches of visitors are prohibited. Institutional officials must point to specific objective facts and rational inferences that they are entitled to draw from those facts. Absent reasonable suspicion directed toward a visitor, these searches are prohibited. Even a visitor's consent to such a search does not make the search permissible, absent reasonable suspicion directed toward that visitor. These searches may only be conducted with the approval of the unit head, assistant unit head, or their designee.

b. If the visitor to whom reasonable suspicion is directed cooperates with the search and no contraband is found, the visit may proceed.

c. If the visitor refuses to be searched, the following options exist:

- i. disallow the visit and require that the visitor leave;
- ii. permit a noncontact visit;
- iii. detain the visitor until law enforcement can arrive and enforce the search (See Code of Criminal Procedure Article 215.2).

d. If contraband is found, the visitor shall be detained pending notification of law enforcement, who shall advise the institution as to how to proceed (likely, they will advise us to detain the visitor pending their arrival to place the visitor under arrest.)

#### 4. Visual Body Cavity Search; Body Cavity Search

a. These searches may be conducted only with a search warrant. The warrant should specify who should conduct the search (doctor, nurse, etc.), however, if the warrant is silent, a physician should conduct the search.

b. If there is sufficient cause and suspicion to cause institutional officials (the unit head and/or his designee(s)) to believe that a visitor is secreting contraband within a body cavity, that visitor should be detained as per Code of Criminal Procedure Article 215.2, while law enforcement personnel are notified, and a search warrant obtained, or the visitor is arrested by law enforcement personnel.

H. *Searches by Drug-Sniffing Dogs*. Searches of visitors and their property by trained drug-sniffing dogs may be conducted at any time.

#### I. Suspension of Visiting Privileges

1. If contraband is found on a visitor, or if a visitor refuses to be searched or refuses to allow his property to be searched, or if the visitor violates any other rules of the institution, that particular visit may be disallowed and the visitor told to leave the institution.

2. If the offense is such that it is the unit head's desire to remove that visitor from the visiting list (either indefinitely or for a fixed period of time), the following procedure must be used:

a. The unit head must notify the visitor in writing that he/she has been removed from all applicable visiting lists for (amount of time), and why. The visitor shall also be notified that he may appeal this action to the appropriate assistant secretary by sending a letter of appeal to the assistant secretary within 15 days of the date of this notice. A copy of the notice shall be sent to the assistant secretary and the unit head.

b. If the visitor exercises this appeal right, the assistant secretary shall schedule a hearing within 30 days of notice of appeal by the visitor, and notify the visitor of the time, date and location of the hearing. The hearing shall consist of a meeting between the visitor and the assistant secretary, which meeting shall be preserved by minutes taken by the assistant secretary's designee.

c. The unit head may submit a report to the assistant secretary setting forth any information that he feels may assist the assistant secretary in making his decision. The assistant secretary may determine that the unit head should attend this hearing, in which event the assistant secretary shall notify the unit head that he or his representative should attend. Otherwise, the only people allowed to participate in the hearing shall be the visitor and the assistant secretary.

d. The assistant secretary shall render a written decision granting or denying the appeal, and shall notify the visitor and the unit head of the decision within 15 days of the hearing. Brief reasons for the decision shall be given.

e. The visitor or unit head may appeal the assistant secretary's decision to the secretary, within 10 days of the date of the assistant secretary's decision. The secretary shall decide the matter on the record, which shall consist of the unit head's notice, the letter of appeal to the unit head, the unit head's report (103.I.2.c), if any, the minutes of the hearing with the assistant secretary, and the letter of appeal to the secretary. No additional hearing shall be held. The secretary shall render a decision within 30 days of the letter of appeal to the secretary. No reasons are necessary. The visitor and the unit head shall be notified of the secretary's decision in writing.

f. The suspension of visiting privileges which is the subject of this appeal shall remain in effect pending final resolution of the appeal.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 14:402.

**HISTORICAL NOTE:** Adopted by Department of Public Safety and Corrections, Corrections Services, LR 12:443 (July 1986).

### **§304. Searches of Employees**

A. Purpose. To establish the secretary's policy and instructions regarding searches of employees at facilities within the Corrections Services Division of the Department of Public Safety and Corrections.

B. To Whom This Regulation Applies. This regulation is applicable to all personnel in the employ of the Corrections Services Division of the Department of Public Safety and Corrections.

C. Policy. It is the policy of the secretary to halt the flow of contraband into institutions under the jurisdiction of the department. Corrections Services employees may be subjected to searches as set forth in this regulation. Searches shall be conducted in a manner that will avoid unnecessary force, embarrassment, or indignity to the employee. Employees shall be advised of this authority prior to accepting employment. They also shall be advised of possible disciplinary and criminal consequences which may result from any attempt to bring contraband into or out of an institution. It is a violation of Louisiana law to bring contraband into a correctional facility (R.S. 14:402).

D. General. The United States and Louisiana constitutions prohibit unreasonable searches. This regulation is based on current court decisions regarding searches of employees. Since a constitutional question is involved, department employees must be especially conscientious about complying with this regulation.

E. References. U.S. Constitution 4th and 14th Amendments, Louisiana Constitution, Article 1, Section 5, *U.S. v. Sihler*, 562 F.2d 349 (1977, U.S. 5th Cir.), *Sec. and Law Enforcement Employees District Council 82 v. Carey*, 737 F.2d 187 (1984, U.S. 2nd Cir.)

F. Definitions. For the purpose of this regulation, the following definitions of different types of searches shall be applicable:

#### *Personal Searches*

##### a. Pat-Down or Frisk Search

i. A search of a fully-clothed person, conducted by a member of the same sex for the purpose of discovering contraband.

ii. The person being searched may be required to empty his pockets, purse, or any other area where items may be stored or carried, in order that these items be searched for contraband.

iii. the person being searched may be required to remove any wig or hairpiece he may be wearing. This portion of the search must be conducted by a person of the same sex as the person being searched, in a private place, out of the view of others, in a place where the person being searched will have access to a mirror, in order that they can restore their appearance with the least possible difficulty.

iv. The person being searched may also be required to remove all outerwear (coats, jackets, hats, caps, gloves, shoes, socks, etc.) in order that these items be searched. He may also be required to open his mouth for inspection. The person will not be required to remove articles of clothing which are the person's basic dress (shirts, pants, dress, skirt, etc.). The person conducting the search shall use his hands to touch the person being searched, through his clothes, in such a manner to determine if something is being concealed. If the person conducting the search discovers an unusual lump or bulge, etc., he may order the person being searched to disclose the source of the

unusual lump, etc. Failure to comply with this order constitutes reasonable suspicion to conduct a strip search.

b. *General Search* A search whereby the employee is required to remove his clothing down to his underwear, in order that his clothes may be inspected for contraband and his person be observed. This search shall be conducted in a private place, out of the view of persons other than those conducting the search.

c. *Strip Search* A visual search of the employee's nude body, conducted by employees of the same sex as the employee being searched, in a private place, out of the view of persons other than those conducting the search. The employee may be required to bend over, squat, turn around, raise his arms, lift the genitals, run his hands through his hair and/or open his mouth for inspection (the foregoing list is exemplary, not exclusive). The employee's clothing may be thoroughly searched prior to returning them to the employee.

d. *Visual Body Cavity Search* A visual search of the employee's nude body, conducted by employee(s) of the same sex as the employee being searched, only pursuant to a search warrant, in a private place, out of the view of persons other than those conducting the search. The employee may be required to bend over, squat, turn around, raise his arms, lift the genitals, run his hands through his hair and/or open his mouth for inspection (the foregoing list is exemplary, not exclusive). Additionally, visual search is made of the anal and/or vaginal openings, whereby the person is required to open the cheeks of the buttocks and/or the lips of the vagina. The employee's clothing may be thoroughly searched prior to returning them to the employee.

e. *Body Cavity Search* A search of a body cavity, conducted by medical personnel only, and only pursuant to a search warrant.

*Property Searches* Searches of employees' personal property that they bring onto the institutional grounds, including but not limited to automobiles, lunchboxes, purses, coats and jackets, etc. For the purposes of this regulation, "institutional grounds" means any place where offenders may possibly enjoy access, either supervised or unsupervised.

*Reasonable Suspicion* Suspicion supported by facts and circumstances which lead an employee of ordinary caution to believe that an employee is secreting contraband in or on his body.

#### G When Searches are Permitted

1. *Property Search.* Property searches may be conducted at any time.

2. *Pat-Down Search.* Pat-down searches may be conducted at any time, with the approval of the unit head, assistant unit head, or their designee.

3. *General Search.* General searches may be conducted at any time, with the approval of the unit head, assistant unit head, or their designee.

#### 4. Strip Search

a. With the approval of the unit head, assistant unit head, or their designee, strip searches of employees may be conducted when there is reasonable suspicion directed toward a particular employee. Random strip searches of employees are PROHIBITED. Also, strip searches of groups of employees are prohibited absent reasonable suspicion directed toward the entire group. Strip searches shall be conducted in the presence of at least two security officers.

b. In order to conduct a strip search, the suspicion must be directed to a specific employee(s). Factors to determine reasonable suspicion include:

- i. nature of the tip or information;
- ii. reliability of the informant;
- iii. degree of corroboration of the tip or information; and
- iv. other facts contributing to suspicion or lack thereof.

c. Documentation on all such strip searches performed must be prepared, containing information regarding the circumstances surrounding the search, the reasons therefor, and the results of the search. A copy of this report shall be given to the employee. The original report, plus any supporting documents or reports, shall be forwarded to the Legal Section at headquarters, for review and filing.

d. The report of the strip search must not contain any information which would tend to identify the source of any confidential information which was part of the basis for the search. This information must be contained in the supporting documentation which accompanies the report which is forwarded to legal services.

#### 5. Visual Body Cavity Search and Body Cavity Search

a. Visual body cavity searches and body cavity searches of employees are not permitted absent a search warrant authorizing the search. The warrant should specify who should conduct the search (doctor, nurse, etc.), however; if the warrant is silent, a physician should conduct the search.

b. If there is sufficient cause and suspicion to cause institutional officials (the unit head and/or his designee(s)) to believe that an employee is secreting contraband within a body cavity, that employee should be detained as per Code of Criminal Procedure Article 215.2, while law enforcement personnel are notified, and a search warrant obtained, or the employee is arrested by law enforcement personnel.

H. *Searches by Drug-Sniffing Dogs.* Searches of employees and their property by trained drug-sniffing dogs may be conducted at any time.

AUTHORITY NOTE: Promulgated in accordance with R.S. 14:402.

HISTORICAL NOTE: Adopted by Department of Public Safety and Corrections, Correction Services, LR 12:445 (July 1986).



**§305. Adult Offender Furloughs**

A. Purpose. The purpose of this regulation is to establish the adult offender furlough policy of the Department of Public Safety and Corrections.

B. Responsibility. Unit heads and the Office of Adult Services are responsible for implementing this regulation and advising all adult offenders and affected employees of its contents.

C. General. Furloughs for adult offenders sentenced to the Department of Public Safety and Corrections may be granted only by headquarter officials and shall be approved before they begin. Headquarters reserves sole discretion in determining eligibility. The period during which the adult offenders will be on furlough will be clearly indicated in the approval.

D. Definitions

*Close Family Member* the mother, father, wife, husband, adult child, grandparent, responsible brother or sister, verified legal guardian, or verified regularly visiting aunt or uncle.

*Furlough* a release from incarceration during the last six months of an offender's sentence for the purpose of assisting in his/her transition from an institution into society.

*Furlough Residence* a verified, established residence of a close family member approved for an offender's furlough.

*Furlough Violation* the commission of any new offense, as well as any misconduct resulting in any disciplinary action while on furlough.

*Unit Head* the sheriff, warden of a departmental facility, or administrator of a community corrections center, or their designee(s).

E. Procedures

1. Furlough requests should be reviewed by the unit head to determine that the application is justified and is not in contravention of this regulation. All furlough requests must be recommended by the unit head.

2. Necessary verification of furlough plans, transportation, and coordination with family is the responsibility of the unit head recommending the furlough.

3. It is the responsibility of each unit head to devise and implement a system for monitoring offenders on furlough and to ensure that the approved frequency of furloughs is adhered to.

4. Requests are to be forwarded to the Office of Adult Services where it shall be determined whether the sheriff and/or district attorney, and/or chief of police of the locality where the offender is going objects. Any written objection received from a public official from the parish of conviction will take precedence over any other approval. The Office of Adult Services will notify the unit head at the originating institution of headquarters' decision.

5. When a request is received, the Office of Adult Services shall certify that the offender meets the eligibility standards.

6. All furlough violations shall be immediately reported to the Office of Adult Services. A quarterly report of all violations in the previous quarter shall be due at the Office of Adult Services within five working days after the end of each quarter. The reports shall indicate the nature of the incident, age of the offender, original offense, length of sentence, prior criminal record, and other characteristics found to be predicative of success or failure. Any recommended changes in furlough eligibility standards will be included in the report.

F. Eligibility. Adult offenders must meet the following criteria in order to be eligible for a furlough:

1. must have been sentenced for at least one year. (Probation, parole, and good time violators must serve one year from date of revocation.);

<sup>1</sup>2. must not be serving a sentence for any of the following crimes:

a. first or second degree murder or attempted first or second degree murder;

b. aggravated or attempted aggravated rape;

c. forcible rape;

d. aggravated kidnaping;

e. aggravated arson;

f. armed robbery or attempted armed robbery;

g. producing, manufacturing, distributing, dispensing or possession with intent to produce, manufacture, distribute, or dispense a controlled dangerous substance classified in Schedule I or Schedule II of R.S. 40:964;

h. habitual felon conviction;

i. must not be serving a sentence for any crime of sexual nature or have a history of such crime.;

3. must not have more than six months to discharge;

4. must not have escaped, attempted to escape, or abetted an escape during the preceding five years;

5. must be classified as minimum custody according to the criteria of the institution where the offender is confined and have exemplary conduct (no high court disciplinaries during the last six months being a minimum requirement);

6. must submit a furlough plan stating the purpose of the furlough, destination, and name of the person with whom the offender will stay, as well as a telephone number where the offender can be reached at all times. A responsible close family member must sign a statement agreeing to be accountable for the offender and shall ensure that transportation is provided for the adult offender. No public transportation is allowed. A copy of the furlough plan must

be forwarded with the request to the Office of Adult Services. In cases of extreme emergency, portions of this requirement may be waived by headquarters.

#### G Length and Frequency of Furloughs

1. Furloughs will be approved for a specific period not to exceed three days.

2. Furloughs will be no more frequent than bi-monthly for a maximum of three during an offender's last six months.

3. Offenders, other than those on work release, will be eligible for no more than one furlough.

4. Offenders on work release will be eligible for three bi-monthly furloughs during their last six months. The unit head is responsible for monitoring the frequency.

5. All offenders on furlough must be at their approved residence from 10 p.m. to 8 a.m. during their furlough period unless they have received prior approval.

#### H. Administrative Requirements

1. Requests for furloughs should be submitted at least 30 days prior to the start of the requested furlough period. Emergency furloughs exempted.

2. Furloughs should not be requested for offenders even though they meet the criteria established herein when it is known to the unit head that the offender might present a danger to himself or others or cause adverse public reaction should he be released.

I. The effective date of this regulation is October 20, 1989. This regulation supersedes Department Regulation 30-7 dated January 20, 1986.

<sup>1</sup>Cannot be waived (R.S. 15:833(B); 15:811) except in last six months of sentence.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:811(C), R.S. 15:833.

HISTORICAL NOTE: Promulgated by the Department of Corrections, Office of Adult Services, LR 4:418 (November 1978), amended LR 4:487 (December 1978), LR 8:274 (June 1982), and LR 15:853 (October 1989).

### **§306. Release of Offenders to Sheriffs to Attend Funerals**

A. Purpose. The purpose of this regulation is to establish procedures for the release of adult offenders in the custody of the Department of Public Safety and Corrections to sheriffs for the purpose of attending the funeral of a family member.

B. Responsibility. It is the responsibility of the assistant secretary of the office of adult services and all wardens of each adult correctional institution to ensure compliance with this regulation and to advise their respective employees who are affected by the contents.

C. General. Department Regulation 30-7C, Escorted Inmate Absences, gives the wardens a great deal of latitude in granting this privilege. When the warden, at his discretion, denies a request for an escorted absence for an offender to

attend the funeral/wake of a chosen family member as described in Department Regulation 30-7, there are occasions when the sheriff of the parish where the funeral is taking place requests permission to provide this service.

#### D. Procedures

1. In order for the sheriff to be allowed to provide the escort, the following criteria must be met.

a. The warden and the Office of Adult Services must ascertain and agree that releasing the offender to the custody of the sheriff does not pose a risk to the general public or to the transporting officers.

b. The warden and the Office of Adult Services must ascertain and agree that the offender is not a significant escape risk.

c. The offender's presence at the funeral is not likely to evoke adverse public reaction.

d. The offender does not suffer from any medical or psychological problems which would preclude an escorted absence.

2. If the above criteria are met, the Office of Adult Services must advise the institution, in writing, that they are authorized to release the offender to the custody of the sheriff's office per Department Regulation 30-7E.

3. Before releasing the offender to the transporting officers, the officers must sign a form labeled Release to Custody of Sheriff.

4. Under no circumstance is the release to exceed 72 hours.

E. The effective date of this regulation is August 20, 1990.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:833.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, LR 16:693 (August 1990).

### **§307. Placement and Transfer of Offenders: Selection Criteria**

A. Purpose. The purpose of this regulation is to establish selection criteria to be followed in placement and transfer of adult offenders to the various units within the Department of Public Safety and Corrections, Corrections Services.

B. Responsibility. The assistant secretary for Adult Services, wardens and classification personnel of adult institutions are responsible for the implementation of this regulation. They shall insure that necessary information and instructions are furnished to all affected employees and offenders.

C. General. A comprehensive selection process for placement and transfer of offenders within the Department of Public Safety and Corrections, Corrections Services, is essential in order to fulfill the purposes and goals of the various institutions. Offenders should be able to benefit from the programs offered at the institution to which they are

being assigned. The selection criteria outlined below should be considered the outside limits of acceptability. Other factors such as adjustment potential, as determined by psychological evaluation, excessiveness of the criminal records and observable behavior should also be considered in the selection process. The secretary retains the right to make such assignments as he, in his sole discretion, deems appropriate.

#### D. Procedure

1. All placements or transfers will be approved by the secretary or by his designated representative.

2. Only the secretary, or in his absence, his designated representative, has the authority to waive any of the eligibility requirements listed below and then only for good cause.

3. When inmates are transferred from a work training facility or Louisiana Correctional and Industrial School (LCIS) to Adult Reception and Diagnostic Center (ARDC) for disciplinary reasons, their security class should be increased to no more than medium security unless the instant rule violation report, which resulted in the transfer, was so serious as to warrant a maximum security staffing.

#### E. Definitions

*Earliest Release Eligibility Date*—the earliest date on which an offender is legally eligible for release, even if actual release is predicted on a future decision of the department or of the parole board.

#### F. Selection Criteria

1. Louisiana Correctional and Industrial School (LCIS)

<sup>1</sup>a. Only first offenders are eligible.

b. Offenders found guilty of escape or attempted escape by a court or institutional disciplinary board within the past seven years are ineligible.

c. Persons who are currently under and/or who have demonstrated a need for intensive medical treatment (physically or psychologically) are ineligible. At the time treatment has been completed, and such termination of services has been documented by competent medical staff, persons may then be considered as eligible for transfer.

d. Persons who have demonstrated an overt-aggressive pattern of homosexual behavior, to the extent that it would disrupt the smooth daily operation of the institution, are ineligible. Evidence must be documented and of a firsthand rather than of a hearsay nature.

e. Persons who have a balance of time extending beyond eight years remaining to serve on their sentence prior to their earliest release eligibility date are ineligible.

f. Persons serving a life sentence will not be eligible unless there is a demonstrated need by the institution for the skill of the offender. Such an offender must meet all other requirements.

g. Persons who have demonstrated a consistent pattern of poor institutional adjustment and/or have a poor institutional conduct record are not eligible. Evidence must be documented and of a firsthand rather than of a hearsay nature.

h. Persons who are young in age should be given priority over the older first offenders who satisfy all other requirements.

i. When bed space is not available for all offenders meeting the criteria in ' 307.F.1.a-h, priority will be given to those offenders convicted of offenses other than:

i. aggravated, forcible or simple rape or an attempt to commit these crimes;

ii. carnal knowledge of a juvenile;

iii. aggravated crime against nature;

iv. aggravated arson;

v. aggravated kidnaping;

vi. armed robbery or attempted armed robbery;

vii. distribution or possession with intent to distribute any controlled dangerous substance (with the exception of marijuana offenses);

viii. possession of any drug listed in Schedule I, Section A or B, in Schedule II of the Controlled Dangerous Substance Law (R.S. 40:964);

ix. murder or attempted murder (first and second degree); and

x. R.S. 15:529.1 (Habitual Offender Law).

2. Dixon Correctional Institute (DCI), Hunt Correctional Center (HCC), Wade Correctional Center (WCC), Washington Correctional Institute (WCI)

a. Persons with a history of institutional behavior which reflects an assaultive personality are ineligible. A person's criminal history may also be considered in cases where a maximum security placement appears necessary and there is no institutional behavior to evaluate.

b. Persons presently serving sentences for the commission of the following crimes are ineligible:

i. aggravated, forcible, or simple rape;

ii. attempted aggravated rape;

iii. attempted forcible rape;

iv. aggravated crime against nature;

v. murder (first or second degree);

vi. aggravated arson;

vii. armed robbery (second or subsequent offense);

and

viii. aggravated kidnapping.

(Note: Persons convicted of the above may be considered for transfer upon recommendation of the warden of Louisiana State Penitentiary after serving a minimum of five years of their sentence.)

c. Persons who are currently under and/or have demonstrated a need for extensive and/or intensive medical treatment (physically or psychologically) are ineligible. At the time treatment has been completed, and such termination of service has been documented by competent medical staff, persons may then be considered as eligible for transfer.

d. Offenders who have demonstrated an overt-aggressive pattern of homosexual behavior, to the extent that it would disrupt the smooth daily operation of the institution, are ineligible. Evidence must be documented and of a firsthand rather than of a hearsay nature.

e. Persons who have a balance of time extending beyond 10 years remaining to serve on their sentence prior to their earliest release eligibility date are ineligible.

f. Persons serving life sentences will not be eligible unless there is a demonstrated need by the institution for the skill of the offender. Such an offender must meet all other requirements.

g. Persons who have demonstrated a pattern of poor institutional adjustment and/or have a poor institutional conduct record are not eligible. Evidence must be documented and of a firsthand rather than of a hearsay nature.

### 3. Woodworth Forestry Camp

a. Any offender who is transferred to Woodworth Forestry Camp must meet the criteria for assignment to Work Training Facility/North (Camp Beauregard).

b. Offenders currently housed at Work Training Facility/North will be given first preference.

c. Since offenders at Woodworth Forestry Camp will be allowed a quarterly furlough, only offenders who qualify for furlough (See Department Regulation Number 30-7 [see LAC 22:I.305]) may be considered for transfer.

4. Work Training Facility/North (Camp Beauregard) and Work Training Facility/South (Jackson Barracks) (See Department Regulation Number 30-14-A for Work Release Criteria [see LAC 22:I.311].

a. Offenders having detainers or warrants for pending felony charges are ineligible. This does not apply to detainers for traffic violations or for court costs.

b. Persons presently serving sentences for the commission of the following offenses are ineligible:

<sup>2</sup>i. aggravated, forcible, or simple rape or of an attempt to commit these crimes;

<sup>2</sup>ii. carnal knowledge of a juvenile;

<sup>2</sup>iii. aggravated crime against nature;

<sup>2</sup>iv. aggravated arson;

<sup>2</sup>v. murder (first or second degree);

<sup>2</sup>vi. distribution of any controlled dangerous substance (with the exception of marijuana offenses);

<sup>2</sup>vii. armed robbery;

<sup>2</sup>viii. aggravated kidnapping;

<sup>2</sup>ix. R.S. 15:529.1 (Habitual Offender Law);

<sup>2</sup>x. indecent behavior with a juvenile; and

<sup>2</sup>xi. incest.

<sup>2</sup>c. Persons who have escaped and/or have abetted an escape and/or have attempted to escape within the last seven years are ineligible.

<sup>2</sup>d. Persons who are currently under and/or who have demonstrated a need for intensive medical treatment (physically or psychologically) are ineligible. At the time treatment has been completed, and such termination of services has been documented by competent medical staff, persons may then be considered as eligible for transfer.

<sup>2</sup>e. Persons who have demonstrated an overt-aggressive pattern of homosexual behavior, to the extent that it would disrupt the smooth daily operation of the institution, are ineligible. Evidence must be documented and of a firsthand rather than of a hearsay nature.

<sup>2</sup>f. Persons having a balance of time extending beyond five years to the earliest release eligibility date are ineligible.

g. Persons who have demonstrated a consistent pattern of poor institutional adjustment and/or have a poor institutional conduct record are not eligible. Evidence must be documented and of a firsthand rather than of a hearsay nature.

<sup>2</sup>h. Persons with a history of criminal activity which reflects an assaultive (violent) personality are ineligible. This includes both arrest and/or institutional records.

### 5. Sheriff or Police Maintenance

a. The offender must be specifically requested by the sheriff or chief of police.

b. The sheriff or the chief of police and the department must enter into a written contract which conforms with the requirements set forth in R.S. 15:832(D).

c. The offender must be domiciled in, or sentenced from, the parish which is requesting him, unless specifically exempted from this requirement by the secretary of Public Safety and Corrections.

d. Offenders who have been found guilty of escape or attempted escape by a court or institutional disciplinary board in the last seven years are ineligible.

e. Persons who are currently under and/or who have demonstrated a need for intensive medical treatment (physically or psychologically) are ineligible. At the time treatment has been completed, and such termination of

services has been documented by competent medical staff, persons may then be considered as eligible for transfer.

f. Persons who have demonstrated an overt-aggressive pattern of homosexual behavior, to the extent that it would disrupt the smooth daily operation of the institution, are ineligible. Evidence must be documented and of a firsthand rather than of a hearsay nature.

g. Persons serving life sentences will not be eligible unless there is a demonstrated need by the institution for the skill of the offender. Such an offender must meet all other requirements.

h. Persons presently serving sentences for the commission of the following offenses are ineligible:

- i. aggravated, forcible, or simple rape or of an attempt to commit these crimes;
- ii. carnal knowledge of a juvenile;
- iii. aggravated crime against nature;
- iv. aggravated arson;
- v. murder or attempted murder (first and second degree);
- vi. distribution or possession with intent to distribute any controlled dangerous substance (with the exception of marijuana offenses);
- vii. possession of any drug listed in Schedule 1, Section A or B, or in Schedule II of the Controlled Dangerous Substance Law (R.S. 40:964);
- viii. armed robbery or attempted armed robbery;
- ix. aggravated kidnapping;
- x. R.S. 15:529.1 (Habitual Offender Law);
- xi. indecent behavior with a juvenile;
- xii. incest.

i. Offenders having detainers or warrants for pending felony charges are ineligible. This does not apply to detainers for traffic violations or for court costs.

j. Offenders on maintenance programs will be assigned to the appropriate probation and parole district supervisor for monitoring purposes.

#### 6. State Police Barracks

a. Offender must be specifically requested by state police.

b. Offenders found guilty of escape or attempted escape by a court or institution disciplinary board within the past seven years are ineligible.

c. Persons who are currently under and/or who have demonstrated a need for intensive medical treatment (physically or psychologically) are ineligible. At the time treatment has been completed, and such termination of services has been documented by competent medical staff, persons may then be considered as eligible for transfer.

d. Persons who have demonstrated an overt-aggressive pattern of homosexual behavior, to the extent that it would disrupt the smooth daily operation of the institution, are ineligible. Evidence must be documented and of a firsthand rather than of a hearsay nature.

e. Persons serving life sentences will not be eligible unless there is a demonstrated need by the institution for the skill of the offender. Such an offender must meet all other requirements.

G Protection. Before transferring an offender to protective status at Wade Correctional Center, the warden at the institution of assignment must certify, in writing, to the Office of Adult Services, the reasons as to why adequate protection cannot be provided at said institution or any other unit within the Department of Public Safety and Corrections, Corrections Services. Upon receipt of the warden's assessment, the administrator of classification at headquarters will review and certify to the assistant secretary for adults why the offender needs to be protected and should be placed in protective status.

#### H. Detainers

1. Detainers for traffic violations, court costs, criminal neglect of family and fines will not disqualify an inmate for assignment to any facility for which he is otherwise eligible. However, all other misdemeanor detainers shall serve to disqualify maintenance candidates only.

2. A detainer for a felony which a conviction could result in a sentence that would disqualify the inmate from assignment to a certain security class should serve to disqualify the inmate from that assignment, in fact.

3. A detainer for a concurrent sentence which is shorter than the sentence which the inmate is serving within the Department of Public Safety and Corrections, Corrections Services, should be disregarded unless the sentence itself changes the inmate's security class.

#### I. Escapes

1. An escape other than the returning late from a pass from any Department of Public Safety and Corrections, Corrections Services' facility shall result in assignment to at least one higher security class;

2. A documented aggravated escape from a department facility or any penal institution within the past seven years should require the classification of an inmate as maximum security; and

3. A documented history of nonaggravated escapes totaling more than two would result in classification of an inmate as maximum security and as a high escape risk.

J. Cancellation. This regulation supersedes Department Regulation Number 30-14 dated January 20, 1984, and will not operate to require the transfer of any offender who was transferred to a facility for which he does not now qualify, provided he was transferred to that facility prior to February 20, 1985.

<sup>1</sup>May not be waived (R.S. 15:1062).

<sup>2</sup>May not be waived (R.S. 15:893.1)

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 15:824, 15:832, 15:893.1, 15:1062.

**HISTORICAL NOTE:** Promulgated by the Department of Public Safety and Corrections, Corrections Services, Office of Adult Services, LR 10:969 (January 1984), amended LR 11:105 (February 1985).

### **§308. Juvenile Offender Custody, Classification and Assignment**

A. Purpose. To establish procedures for the assignment and reassignment of juvenile offenders disposed by the juvenile court to the custody of the Department of Public Safety and Corrections.

#### **B. General**

1. The assignment of juvenile offenders in the custody of the Department of Public Safety and Corrections shall be based upon a classification of the risks and needs presented by the offender. This classification shall be based upon ascertainable events and behaviors and shall be provided for all juvenile offenders in the custody of or supervised by the Department of Public Safety and Corrections, Office of Juvenile Services.

2. The reassignment of offenders in agency custody shall be clearly based upon the documented needs of the offender and the risks presented and *not* solely upon the established duration of the treatment program.

3. The offenders and the offender's family or guardian shall be informed of the alternatives and outcomes of the assignment or reassignment and be included in the treatment/service plan.

4. Offender assignments and reassignments shall be accompanied by the offender classification, staffing and due process procedures specified below.

5. At all times the services provided the offender shall be part of a written treatment/service plan. Each offender's treatment/service plan shall be regularly reviewed as per OJS policy to assure that the most appropriate services are being provided, within the least restrictive setting available.

C. Definitions. The following definitions apply within the context of document.

*Administrative Review* Cthe process by which custody offenders reassigned to a higher level of nonsecure care may request a second level review of the reassignment.

*Appeal* Cthe process by which custody offenders may initiate a further review of the assignment decision to secure custody.

*Assessment* Cthe process of gathering the necessary social, legal, psychological, behavioral, and educational information about the juvenile offender to indicate the appropriate level of care and custody.

*Assignment* Cthe process of placing the custody offender in the available treatment program most appropriate to his/her indicated needs and risks.

*Case Review* Cthe process of reconsideration or verification that the custody offender's treatment is appropriate to meet the identified needs.

*Classification* Cthe process by which the juvenile offender is assessed relative to needs and risks presented.

*Custody Offender* Cthose juvenile offenders disposed to the custody of Department of Public Safety and Corrections by a court of juvenile jurisdiction.

*Due Process Hearing* Cthose administrative hearings conducted at the time of a custody offender's reassignment to secure levels of custody from previous nonsecure custody settings.

*Levels of Care* Cthe range of treatment services and programs available for custody offenders arranged on a scale from least restrictive to most restrictive.

*Nonsecure Custody* Cincludes services and programs available to custody offenders at all levels of care less restrictive than those provided in a secure custody setting.

*Petition for Second Review by the State Level Review Panel* Cthe process by which an offender in secure custody, whose referral for early release has been denied by the state level review panel, may request a second review by that panel.

*Reassignment* Cthe authorized move of a custody offender from one treatment program to another.

*Reclassification* Cthe process by which juvenile offenders have their needs and risk assessments reviewed and rescored based upon observable events and behavior.

*Release* Cthe termination, either by court order or expiration of a court order, of Department of Public Safety and Corrections, custody of a juvenile offender.

*Secure Custody* Cthat highest of the levels of care indicating a maximum (within law) restriction of a juvenile offender's rights, or freedoms.

*Staffing* Cthe process by which a team of professionals reviews, discusses, and plans, along with the offender, for best meeting the offender's identified needs.

*State Level Review Panel* Ca multi-disciplinary team charged with the responsibility of reviewing requests from an offender's release from a juvenile correctional institution to a less restrictive placement and subsequently issuing a report indicating confirmation or rejections of the recommendation.

#### **D. Minimal Procedural Requirements**

1. Predispositional or disposition modification recommendations to the court concerning Department of Public Safety and Corrections custody of offenders.

In all cases, Office of Juvenile Services staff recommendations to the court for an offender to be placed in the custody of the Department of Public Safety and

Corrections shall be preceded by a case staffing. Documentation of the staffing proceedings and final recommendations shall be maintained in the offender's case record. Recommendations for Department of Public Safety and Corrections custody of offenders not currently or previously having received services in the community shall be supported only by the most stringent circumstances of risk and/or need. The final committee recommendations shall be fully supported by information presented at the staffing and be included in the report to the court.

## 2. Offender Classification and Assessment

a. If the initial case staffing supports a recommendation for Department of Public Safety and Corrections custody, then the committee shall also conduct a classification staffing in order to determine the appropriate level of custody necessary to conduct a full assessment of the offender's risk and needs. The level of custody may be secure or nonsecure. All offenders served by the Office of Juvenile Services are classified as to their level of risk and need. This custody level decision shall be supported by the offender's risk and needs classification, by the available social and behavioral history, as well as by any previous history of treatment or supervision. Results of the classification staffing should be submitted to the court along with the earlier recommendation for custody.

b. For those offenders disposed to Department of Public Safety and Corrections custody without prior study and recommendation by Office of Juvenile Services staff, the classification staffing shall be held within 15 working days of disposition and receipt of all available information from the court, and except in cases of emergency before assignment of the offender to a program of treatment/services. In these cases a confirmation of the need for Department of Public Safety and Corrections custody must be considered in staffing prior to determining whether the offender requires a secure or nonsecure setting for assessment.

c. Offenders determined to require nonsecure custody for assessment, shall have diagnostic and evaluative information sought in the community. Diagnostic and evaluative assessment for offenders classified for secure custody will be provided at the Juvenile Reception and Diagnostic Center for males and at the Louisiana Training Institute at Ball for females. Upon completion of this assessment, an assignment staffing is held at the OJS Regional Office (for nonsecure) or at JRDC/LTI-Ball (for secure) in order to determine the need for a secure or nonsecure, setting for treatment. The location of the assessment, i.e., secure or nonsecure, shall in no way limit the assignment of offenders to either secure or nonsecure treatment settings.

## 3. Offender Assignment

a. Offenders in the custody of Department of Public Safety and Corrections whose classification and assessment indicate need for treatment services in a nonsecure custody setting shall be referred for placement at treatment facilities

and programs appropriate to the level of care indicated. Assignment of offenders needing nonsecure care may be to facilities or programs ranging from in-home services to residential care and to hospitalization as treatment needs indicate. In all cases, assignment will be made to the least restrictive environment available and appropriate to address offender needs and risks as determined by a case staffing.

b. Following assessment at either JRDC (males) or LTI-Ball (females) the offender is assigned to the secure custody facility most appropriate to meet the offender's needs and risks. If following assessment, a clinical staffing at either of the diagnostic facilities determines that a secure custody setting is not able to address the offender's needs, a referral may be made to the director of the Division of Evaluation and Placement for placement in an alternate setting.

c. An appeal of a secure custody assignment is available as per procedures that follow this rule.

## 4. Case Review and Reclassification

a. All offenders disposed to Department of Public Safety and Corrections custody shall as a function of the case management process have developed an individual case plan. This case plan is developed in conjunction with the offender, his family and other resources to address those needs identified in the classification staffing. Periodic review of the case plan shall be provided as per OJS policy and procedure. As a function of this case review, the offender shall be reclassified. As a result of reclassification and staffing, the current assignment to a program for services at a particular level of care or custody may be changed. The offender could also be determined to be eligible for a recommendation for release from custody.

b. Case review and reclassification of custody offenders shall be accompanied in all instances by a staffing. Offenders being provided supervision by OJS staff and for whom reclassification indicates that agency custody should be pursued must be staffed and, if indicated, brought to court for action on this recommendation. Only the court can assign an offender to agency custody. Case review and reclassification of offenders in custody and assigned to nonsecure programs may result in a recommendation for release from custody. Such recommendation shall be made to the court for consideration and disposition. No offender shall be released from agency custody except by court order.

c. Offenders in agency custody and assigned to secure custody facilities may also be recommended for release following reclassification and staffing. In these cases, the recommendations for release shall first be made to the state level review panel (SLRP) for their concurrence. If the SLRP concurs with release recommendation, the assistant secretary must then approve making such a recommendation to the court.

d. Offenders considered for release but denied by the state level review panel may petition the panel for another review within 20 days of the denial if additional evidence/information is available to address the concerns

reported by the panel. The petition for review must be signed by the superintendent. The OJS regional manager is notified of the petition for review.

e. Custody offender reassignments to higher or lower levels of custody and care may be undertaken by the agency following reclassification and staffing. The offender, family, court and other involved parties shall be notified of the reassignment within five working days of the reassignment. Such transfers shall be fully supported by information included in the reclassification and staffing and be documented in the case record. Reassignment of offenders in agency custody to a higher level of care in nonsecure custody settings may be effected by the agency upon the final staffing recommendations. The offender may petition the director of the DEP for administrative review of these transfers by submitting a request in writing within 72 hours of the notice of reassignment. The director of Division of Evaluation and Placement shall assign a staff member to fully review the case for recommendation to him within 10 working days. The director's decision is final. A face to face contact may be included in the administrative review at the discretion of the director.

f. Delinquent offenders in agency custody may be reassigned from nonsecure to secure custody settings based upon documented findings of reclassification and staffing. In all such cases, the offender shall be provided a full due process hearing as per departmental regulation within five working days of arrival at JRDC (males) or LTI-Ball (females).

## E. Processes of Appeal and Review

### 1. Appeal of Custody Level

a. Available to offenders assigned to secure custody following assessment UNLESS:

i. the presenting offense is classified among those of the HIGHEST severity in the OJS classification system; or

ii. the offender's initial classification custody score indicates a need for Maximum Custody.

b. Offender must notify the superintendent of the request for appeal in writing, within five working days of assignment.

c. Superintendent notifies OJS Headquarters of the appeal request and schedules an appeal hearing.

d. A hearing officer assigned by OJS conducts an appeal hearing at the facility.

e. The offender is allowed to present information in his behalf and may be represented by someone of his choice; or will have a representative appointed by the superintendent.

f. The hearing officer considers the offender's statements and information as well as the information presented in the offender's case record and classification documents.

g. The hearing officer's decision is issued to the offender, his representative and the superintendent within five working days of the appeal hearing.

h. A second level appeal is available to the offender by submitting written notice of this request to the assistant secretary of OJS.

### 2. Administrative Review of Level of Care

a. Available to all offenders disposed by the court to the custody of the Department of Public Safety and Corrections, who, following a reclassification and staffing, are to be reassigned to a higher nonsecure level of care.

b. Upon receipt of written notice of the reassignment, the offender *may* choose to request an administrative review of that decision by:

i. submitting written notice of that request to the director of the Division of Evaluation and Placement (by way of the regional manager), within 72 hours;

ii. the director, upon receipt of the request for review, shall assign a member of his staff to fully review the case, the reclassification, and the reassignment decision;

iii. the director will issue his final decision to the offender and the regional manager within 10 working days of the receipt of the request for review, and his decision is final.

### 3. Due Process Hearings

a. Available to all offenders disposed by the court to the custody of Department of Public Safety and Corrections, who following a reclassification and staffing are:

i. recommended for reassignment from secure custody to the juvenile adjustment center; or

ii. recommended for reassignment to secure custody from a nonsecure program or facility.

b. For offenders in secure custody, upon receipt of the notice of a recommendation for reassignment to the juvenile adjustment center, the offender has a right to due process as provided in departmental regulation;

c. For offenders in nonsecure custody, a due process hearing as per departmental regulation shall be provided at JRDC (males) or LTI-Ball (females) within five working days of arrival following reassignment to secure custody.

### 4. Petition for Second Review by State Level Review Panel

a. Available to all offenders disposed by the court to the custody of Department of Public Safety and Corrections and residing in secure custody facilities/programs, who have had a recommendation for early release denied by the panel.

b. Upon receipt of the state level review panel's decision to deny a recommendation for early release, the offender may petition the panel for a second review by:

i. submitting the request for a second review to the chair of the state level review panel within 20 days; IF:



(a). there is additional information available which directly relates to the reasons for denial cited by the panel in their decision; and

(b). the superintendent supports the petition and notifies the regional manager;

ii. the state level review panel will process second reviews within the constraints of established procedures and time-frames established for the panel.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:711, R.S. 15:833, R.S. 15:893.1(B), and R.S. 15:1111.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Juvenile Services, LR 14:27 (January 1988).

### **§309. Work Release: Selection of Inmates**

A. Purpose. The purpose of this regulation is to establish the secretary's policy regarding the assignment of inmates to work release status.

B. Responsibility. It is the responsibility of the assistant secretary for the Office of Adult Services, all wardens, sheriffs, and community rehabilitation center directors to implement this regulation and convey its contents to the inmate population and all affected employees.

C. General. Selection of inmates to participate in work release programs must be made with the greatest of care. Selected inmates should be able to benefit from the program and should have demonstrated their ability to conform to the rigid standards of conduct expected of those who associate with the general public.

#### **D. Procedure**

1. Inmates at state correctional facilities will be screened for work release pending parole or pending discharge. Applications should be filed eight months prior to parole or discharge dates and arrive at the Office of Adult Services before the beginning of the seventh month prior to parole or discharge. The warden of the institution or supervisor of the unit will indicate his recommendation prior to forwarding of the application to the Office of Adult Services.

#### **2. The Office of Adult Services shall ascertain that:**

a. the applicant is approved by his warden and is eligible for work release under the criteria set forth in this regulation;

b. a bed space exists at a department facility or at a facility under contract to provide such services to the department and that the inmate may be housed there in conformity with Department Regulation 30-14 [see LAC 22:I.309];

c. the inmate is referred to the Parole Board for a hearing, if applicable;

d. all applicants are notified of approval or rejection of the application and the reasons for rejection;

e. upon approval of the Parole Board or in the case of approved applicants pending discharge, the Office of

Adult Services shall arrange transfers when necessary and notify the Office of Finance and Management of the assignment;

f. the inmate has acknowledged all conditions of work release prior to transfer and signed documents indicating his notification of such conditions, such documents to be received at the Office of Adult Services prior to transfer or assignment to work release;

g. applications for inmates presently participating in a department maintenance program may be approved by the assistant secretary/Adult Services; all other approvals are to be by the secretary;

h. employment has been verified in the area where the inmate is to be assigned.

3. A three-member committee appointed by the assistant secretary for Adult Services will review each application and a recorded vote shall be taken and kept in the inmate's record. Any member of the committee voting against approval shall explain his vote on the voting form. A majority of votes shall constitute approval.

4. Inmates sentenced to the Department of Corrections who are in the custody of a sheriff shall not be eligible for a sheriff's work release program unless those inmates would be eligible for work release under the terms of this regulation. Upon application of those inmates either in person or by a sheriff, the Office of Adult Services shall ascertain the applicant's eligibility by law and regulation and certify the eligibility to the secretary for his written approval.

5. Inmates assigned to a nondepartmental facility such as the State Police Barracks, upon application and recommendation of the supervisor of the unit, will be processed under provisions of this regulation.

6. Inmates assigned to work release either within the Department of Corrections or in a sheriff's program may not be employed in an occupation requiring out-of-state travel.

7. All incidents of new crimes or disciplinary infractions by work releases shall be reported to the Office of Adult Services which shall compile a yearly report on or before April 1, of each year, indicating the nature of the incident, age of offender, original offense, length of sentence, prior criminal record, and any other characteristics found to be predictive of success or failure. The Office of Adult Services will include in the report any suggested changes in eligibility standards dictated by the experiences of the previous year.

#### **E. Selection Criteria**

1. Only inmates within six months of their earliest release eligibility date are eligible.

2. Inmates must be approved by the Parole Board where eligibility is based on the parole release date.

3. Inmates must have the recommendation of the warden or appropriate nondepartment supervisor.

4.a. Inmates convicted of the following offenses are not eligible:

- i. aggravated arson;
- ii. aggravated kidnapping;
- iii. aggravated or attempted aggravated rape;
- iv. forcible rape;
- v. murder (first degree)
- vi. habitual offenders sentenced under R.S. 15:529.1.

b. Inmates, other than first offenders, serving sentences for the following offenses are not eligible:

- i. armed robbery;
- ii. attempted armed robbery;
- iii. attempted murder;
- iv. second degree murder.

5. Inmates with arrest or institutional records which reveal compulsive or habitual use of violence against the person are not eligible.

6. Inmates currently requiring frequent medical treatment are not eligible.

7. Inmates found guilty by a court or institutional disciplinary board of escape or attempted escape within the last seven years are ineligible.

8. Inmates who have demonstrated an overt-aggressive pattern of homosexual behavior to the extent it would disrupt the smooth daily operation of the program are ineligible.

9. Inmates whose institutional records reflect consistent signs of bad work habits, lack of cooperation or good faith, or other undesirable behavior are ineligible.

10. First offenders will have priority for work release. Should vacancies exceed the requirements for first offenders, selection would be made from second offenders and so on.

F. Effective Date. The effective date of this regulation is January 1, 1979. It will not apply to inmates approved for work release prior to that date.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:711, R.S. 15:833, R.S. 15:893.1(B), and R.S. 15:1111.

HISTORICAL NOTE: Promulgated by the Department of Corrections, Office of Adult Services, LR 4:486 (December 1978), amended LR 17:203 (February 1991).

### §310. Medical Parole

A. Purpose. To establish procedures for parole consideration of inmates determined to be permanently incapacitated or terminally ill.

B. Applicability. The assistant secretary of the Office of Adult Services, all wardens, medical directors and hospital administrators, in cooperation with the Parole Board, shall be responsible for ensuring compliance with this regulation.

### C. General

1. Any person sentenced to the custody of the Department of Public Safety and Corrections, upon determination that he is permanently incapacitated or terminally ill as defined in '310.D, may be considered for medical parole by the Parole Board. Medical parole consideration shall be in addition to any other parole for which an inmate may be eligible, but shall not be available to any inmate who is awaiting execution or has a contagious disease.

2. The authority to grant medical parole shall rest solely with the Parole Board, and this board may establish additional conditions of parole in accordance with the provisions of R.S. 15:574.20.

3. In considering an inmate for medical parole, the Parole Board may require that the department produce additional medical evidence or conduct additional medical examinations.

4. The parole term of an inmate released on medical parole shall be for the remainder of the inmate's sentence, without diminution of sentence for good behavior. Supervision of the parolee shall consist of periodic medical evaluations at intervals to be determined by the Parole Board at the time of release.

5. If it is discovered through the supervision of the medical parolee that his condition has improved such that he would not then be eligible for medical parole under the provisions of this regulation, the Parole Board may order that the inmate be returned to the custody of the department to await a hearing to determine whether his parole shall be revoked. Any inmate whose medical parole is revoked due to an improvement in his condition shall resume serving the balance of his sentence with credit given for the duration of the medical parole. If the inmate's medical parole is revoked due to an improvement in his condition, and he would be otherwise eligible for parole, he may then be considered for parole under the provisions of R.S. 15:574.4. Medical parole may also be revoked for violation of any condition of parole established by the Parole Board.

### D. Definitions

*Danger to Himself* Can inmate whose behavior supports a reasonable expectation that he will inflict physical or severe emotional harm upon his own person.

*Danger to Society* Can inmate whose behavior supports a reasonable expectation that he will inflict physical harm upon another person or continue to participate in criminal activity.

*Permanently Incapacitated Inmate* Can inmate who, by reason of an existing physical or medical condition, is so permanently and irreversibly physically incapacitated that he constitutes only minimal danger to himself or to society.

*Terminally Ill Inmate* Can inmate who, because of an existing medical condition, is irreversibly terminally ill, and

who by reason of the condition constitutes only minimal danger to himself or to society.

E. Procedures. The following procedures shall be followed to identify inmates who may be eligible for medical parole:

1. A recommendation for a medical parole shall originate with the institution. If the unit medical director believes an inmate meets medical parole criteria according to ' 313.D, he will forward a completed recommendation for medical parole form, and any other supporting documentation, to the warden for comments. The warden's comments should reflect whether or not, in his opinion, the inmate will constitute a security risk to the public should his medical parole be granted. Specifically, these comments should address the inmate's adjustment while incarcerated and the effect his medical condition has had upon his conduct with staff and other inmates, as well as his overall behavior. The warden shall then cause to be completed and promptly forward a residence agreement form, recommendation for medical parole form, supporting documentation and his comments, if any, to the Office of the Secretary.

2. The secretary will generally route the request to the Office of Adult Services for review of compliance with applicable law and policy. In any event, the secretary may:

a. concur with the recommendation of the warden and unit medical staff and forward the case to the Parole Board for review;

b. seek additional information from other medical or administrative staff prior to rendering a decision regarding medical parole eligibility; or

c. decline to forward the case to the Parole Board.

3. If the Parole Board review is not favorable, or if the case is not forwarded to the Parole Board by the secretary for review, then reconsideration may be granted upon reinitiation of the process at the unit level.

F. The effective date of this regulation is November 20, 1992.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:754.20, as enacted by Act 563 of the 1990 Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, LR 17:605 (June 1991), amended LR 18:1265 (November 1992).

### **§311. Classification, Initial Classification and Reclassification Board**

A. Purpose. The purpose of this regulation is to establish uniformity in the initial classification and reclassification of prisoners.

B. Responsibility. It is the responsibility of wardens to implement this regulation at their respective institutions and to convey its contents to the inmate population and all affected employees.

C. Definitions

*Classifications* Ca process by which prisoners are subdivided into groups, based on a variety of considerations which include:

a. determination by and assignment to appropriated custody status;

b. program placement based on inmate needs and available services-medical, mental health, vocational, educational and work;

c. designation to proper housing assignment within the institution;

d. schedule review of assignments to a prisoner's needs and progress.

*Custody Status* Cthe degree of staff supervision appropriated to monitor a prisoner's behavior.

*Initial Classification* Cthe first assignment of a prisoner to custody status, quarters and job assignments, after he has been designated an institution to serve his/her sentence based on Department of Corrections Regulation 30-14 [see LAC 22:I.309].

*Reclassification* Cscheduled, systematic review of classification status in programming, custody, quarters and job assignment. Includes interim information on institutional behavior and program participation and permits changes that may be warranted in custody, quarters and job assignments.

#### **D. Procedures**

1. Each warden shall establish an Initial Classification and Reclassification Board (hereinafter referred to as board) composed of the following officials:

a. academic or vocational representative;

b. security representative (captain or higher);

c. a ranking classification officer.

[*Note:* Other persons may be assigned to assist the board but shall not be voting members. More than one board may be established if necessary. The warden will appoint a chairperson for each board established.]

2. A majority vote shall carry. Two members will suffice for a quorum when compelling reasons prevent the third member from attending, however, a unanimous vote will be necessary in any finding. If a split vote should occur, the decision shall be delayed pending the next regular meeting when all three members are present.

3. The board shall meet weekly or at least bi-weekly at a time and location designated by the warden.

4. The board is expected to use the following variables in deliberations concerning assignments and classifications:

a. time in facility (new assignments),

b. institutional security (paramount),

c. mental health,

- d. conduct record,
- e. facility needs (special skills),
- f. job availability,
- g. emergency,
- h. tenure in one job,
- i. custody status,
- j. crime,
- k. previous work experience,
- l. physical health,
- m. education.

5. After the initial orientation period, a prisoner may apply through his/her institution classification officer for a change in custody and job assignment. An inmate's request should not normally be honored until he/she has completed 90 days of disciplinary free time in current assignment and has not appeared before a previous reclassification board within a 90-day period.

6. A reassignment/reclassification may be requested by:

- a. inmate;
- b. job supervisor;
- c. administrative request;
- d. academic/vocational request.

7. New arrivals will ordinarily be assigned as field hands, to kitchen duties or any routine job where continued vacancies exist.

8. Where no opening exists in a requested job when the request is approved by the board, the request shall be placed in a backlog file. Assignment, when an opening occurs, shall be by seniority on the list. No inmate can be on more than one backlog list at one time. The inmate's name can be removed for misconduct or by subsequent board action. The inmate may request that his name be removed, however, actual removal must be by subsequent board action and must be in the best interest of the institution.

9. Emergency assignments/classifications may be made by the warden, or his designee, at any time if it is in the best interest of the institution. When the cause of the emergency assignment/classifications no longer exists, the board will consider the inmate for reclassification at the earliest opportunity.

10. All reclassification requests should be processed and prisoners determined ineligible should be notified in writing as to the reasons for their ineligibility. Those prisoners determined eligible should be notified at least 48 hours prior to the next regular board meeting.

11. All board results are subject to the review and approval of the warden of the concerned institution.

12. All classifications and reclassifications shall be recorded on the location sheet in the prison record. The results of each board meeting shall be maintained in such a manner that they can be readily retrieved for inspection.

E. Cancellation. This regulation supersedes Department Regulation 30-16 dated March 17, 1970.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:823.

HISTORICAL NOTE: Promulgated by the Department of Corrections, Office of Adult Services, LR 8:274 (June 1982).

### **§313. Correspondence and Packages: Adult Inmates**

A. Purpose. The purpose of this regulation is to establish the secretary's policy regarding the receipt of mail and packages at all adult institutions of the Department of Public Safety and Corrections.

B. Responsibility. It is the responsibility of all wardens and mail room supervisors of adult institutions to implement this regulation and convey its contents to the inmate population, affected employees and affected members of the public.

C. General. It is the secretary's policy that the least restrictions possible be placed on an inmate's ability to send and receive letters and publications through the mail. To this end, reading or censorship of incoming and outgoing letters and publications shall be limited only to those items which are detrimental to security, order, or rehabilitation, or if the reading or censorship is necessary to prevent commission of a crime. The receipt of packages through the mail is not to be encouraged and are to be inspected and handled strictly in accordance with this regulation.

Before receiving letters, packages, or publications, the inmate must sign the Inmate Mail Delivery Agreement and should be informed that if he does not sign this form, all of his incoming mail will be returned to the post office marked "refused."

I, \_\_\_\_\_, agree to accept the delivery of mail sent to me through this institution, \_\_\_\_\_.

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Inmate

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Date

[Note: This form is required by federal postal regulations so that inmate mail can be delivered to the institution. (Federal Register, Vol. 43, Number 66, Page 14308, April, 1978).]

#### **D. Procedures for Letters**

##### **1. Receipt and Sending of Letters Through the Mail**

a. There shall be no restriction on the number of correspondence, number of letters written or received, the length or language of the letter. Inmates shall be allowed to send to and receive letters through the mail from all persons, including inmates in other institutions.

b. On the written request of the person receiving correspondence from an inmate, or of a minor's parent or legal guardian, the institution may refuse to mail correspondence addressed to the person so requesting, in which case the letter must be returned to the inmate with a written explanation.

c. All mail, incoming and outgoing, shall be handled without delay and on a daily basis.

d. No record shall be kept of whom an inmate corresponds with except when the warden determines that it is necessary to prevent the commission of a crime or necessary to the maintaining of security, order or rehabilitation of the institution and has so authorized the keeping of such record in writing.

## 2. Inspection of Letters

a. Outgoing Letters. All outgoing letters are to be posted unsealed and inspected for contraband. Exception: Outgoing "legal" or "official" mail (see following list) may be posted sealed and may not be opened except with a search warrant:

- i. identifiable courts;
- ii. identifiable prosecuting attorneys;
- iii. identifiable probation and parole officers;
- iv. identifiable state and federal departments, agencies and their officials;
- v. identifiable attorneys;
- vi. identifiable members of the press; and
- vii. secretary, deputy secretary and/or assistant secretary of the Department of Public Safety and Corrections.

For purposes of this exception, *identifiable* means that the official or legal capacity of the addressee is listed on the envelope: John Doe, Assistant District Attorney; John Doe, City Desk Editor; John Doe, Judge; John Doe, Secretary of Labor, etc. Additionally, the name, official or legal capacity and address of the addressee must be verifiable. If the name, address and official or legal capacity cannot be verified, designated prison personnel shall state in writing the means employed to verify the information and the fact that it could not be determined to be correct and true. Upon the determination that this mail is not identifiable official or legal mail, said mail shall be treated as all other outgoing mail, and shall be opened and inspected for contraband.

b. Incoming Letters. Incoming letters may be opened and inspected for contraband. Exception:

- i. letters from Department of Corrections officials are not to be opened; and
- ii. letters from the following may be opened and inspected for contraband only in the presence of the inmate addressee:
  - (a). identifiable courts;

- (b). identifiable probation and parole officers;
- (c). identifiable prosecuting attorneys;
- (d). identifiable attorneys;
- (e). identifiable members of the press; and
- (f). identifiable state and federal agencies and officials.

For purposes of these exceptions, see ' 313.D.a of this regulation for the definition of "identifiable." Upon the determination that this mail is not identifiable official or legal mail, said mail shall be treated as all other incoming mail, and shall be opened and inspected for contraband.

3. Reading of Letters. When the warden determines that it is necessary to prevent the commission of the crime or necessary to the maintaining of security, order, or rehabilitation in the institution, he may require the reading of an inmate's mail. In such cases a written record shall be kept in the appropriate office and shall include:

- a. inmate's name and number;
- b. a description of the mail to be read (e.g. outgoing only, from a particular person, etc.);
- c. the specific reasons it is necessary to read the mail, including all relevant information and the names of the persons supplying information;
- d. length of time the mail is to be read;
- e. signature of the warden, superintendent, or his representative; and
- f. notes on the nature of the mail read, but no copies of the mail unless necessary for later use as evidence. At the termination of the reading period a copy of all but ' 313.D.3.c above shall be placed in the inmate's file, with the entire original remaining in the appropriate office.

4. Stationery, Envelopes and Stamps. These items shall be available for purchase by the inmates and shall be provided to indigent inmates in sufficient quantity for all legal and official correspondence, and for at least two letters of personal correspondence each week. Legal and official correspondence is correspondence addressed to courts, prosecuting attorneys, probation and parole officers, Department of Public Safety and Corrections' officials, identifiable attorneys and identifiable members of the press. The institution is not required to provide postage for registered, certified or special delivery mail.

E. Procedure for Packages. If permitted by the regulations of the individual institution, any person may send approved items through the mail to inmates.

1. Approved Items. Subject to the approval of the secretary, each warden or superintendent will prepare and make available to the inmate population a list of items which may be received in packages.

2. Inspection of Packages. All packages shall be inspected for the purpose of discovering contraband. Such

inspection shall be done in a manner that will not damage the contents of the package. A list shall be kept of the items an inmate has received through the mails. Employees will note brand names of each item received whenever possible (appliances, jewelry, clothing, etc.). Employees will not label jewelry as being gold, silver, ruby, diamond, etc. They will note gold colored, red stone, etc.

a. Discovery of Contraband in Packages. Upon discovery of unapproved items or contraband in an incoming package, the following procedures are to be implemented:

i. notice to the inmate of the contents of the package, the date of its receipt, the reason the package is unacceptable, and that the inmate has 21 days to provide return postage for the package, or that it will be otherwise disposed of at the end of 21 days;

ii. if the inmate is without funds to supply postage, and this is verified through Inmate Accounts, the institution shall pay return postage; and

iii. when postage is provided, the package shall be returned to sender, with a note specifying the reason for its return.

### 3. Disposal of Items Received in Packages and Letters

a. Procedures. Unapproved items for which no postage has been provided shall be disposed of in the following manner with documentation of the method of disposal.

i. All perishable items shall be destroyed.

ii. Clothing may be used to provide clothing for inmates discharging from custody.

iii. When the item received is any of the following, the letter or package, its contents, and any other-pertinent information shall be turned over to the district attorney in the parish wherein the institution is located, with notification to the local Federal Bureau of Investigation agent:

(a). any controlled dangerous substance;

(b). any weapon, or explosive;

(c). any escape plans; and

(d). any plans for criminal activity or acts which constitute criminal behavior.

iv. If the inmate refuses to provide postage for items having a value of \$25 or more, except clothing, the institution shall pay for the return postage and the amount shall be charged against the inmate's account.

v. All items returned shall be insured and the amount of the insurance coverage shall be charged against the inmate's account.

vi. All other items shall be donated to a charitable organization, upon approval by the secretary.

vii. No unapproved items shall be given to or purchased by an employee of the Department of Corrections.

viii. Upon the approval of the warden of the institution, unapproved items, other than those listed in ' 313.E.3.a.iii.a-d above, may be disposed of by turning the item over to an approved visitor of the inmate having received the unapproved items and having the visitor sign a receipt for the item.

F. Procedures for Publications. Books, magazines, newspapers, pamphlets, leaflets, brochures, and other printed matter are considered publications. Such printed matter may be read and inspected to discover contraband and unacceptable depictions and literature. Unless otherwise provided by the rules of the institution, all printed matter must be received directly from the publisher.

1. Refusal of Publications. The secretary's general policy is to permit any printed matter which has passed through the U.S. mail to be received by inmates. The presumption is that printed matter received through the mails is acceptable. Therefore, printed material shall only be refused if it constitutes an immediate threat to the security and order of the institution, or would be detrimental to the rehabilitation interests of the institution. In making this determination, the printed matter must fall into one of the following described categories:

a. the printed matter concerns escape plans;

b. the printed matter concerns plans to violate prison rules, or disrupt work routine;

c. the printed matter concerns the introduction, purchase, or instructs in the manufacturing of controlled dangerous substances or alcohol;

d. the printed matter concerns the introduction of, or instruction in the use of or manufacture of weapons, or instructs in the use of martial arts;

e. the printed matter contains material which reasonably construed, is written solely for the purpose of communicating information which could promote the breakdown of order through inmate disruption such as strikes or riots or fomentation of inmate unrest;

f. the printed material contains a graphic presentation of sexual behavior that is in violation of the law (e.g., rape, homosexual acts or crime against nature, of any degree);

g. the printed material has been judicially declared obscene; or

h. the printed material contains depictions of actual or simulated sexual intercourse, which is so explicit that it would stimulate inmates to further criminal behavior in the form of homosexual acts.

2. Procedures when Publication is Refused. If a publication is to be refused, the following procedure shall be followed:

a. specific, factual determination by the warden or his designee that the publication is detrimental to security, order, or rehabilitation and in what particular way it is detrimental under the standards in ' 313.F.1.a-h above;

b. notice to the inmate of the decision to return a publication and the reasons therefore, and informing the inmate that he has seven days to appeal to the warden;

c. if the appeal to the warden is denied, notice to the inmate of this decision within 10 days of receipt of the appeal, and informing him that he has five days to appeal to the secretary, Public Safety and Corrections, who shall review the publication;

d. notice to the inmate of the secretary's decision within 10 days of the receipt of the appeal, with written reasons if the appeal is denied;

e. return of the publication to the sender if the appeal is denied, or forwarding of the publication to the inmate if the appeal is granted; and

f. all refused publications will be held a minimum of 45 days to allow for exhaustion of appeals.

#### G Restrictions on Mail

1. All inmates regardless of status shall be allowed to send and receive approved letters. Inmates in isolation may be denied the right to send mail, except to the courts, legal counsel, or the secretary during the period of isolation.

2. Inmates in administrative lockdown and isolation may be restricted from receiving packages or publication during their stay in administrative lockdown or isolation, but all other mail shall be delivered to them.

3. Approved packages or publications shall be held for the inmate and forwarded to him on his release from administrative lockdown or isolation.

#### H Collection and Distribution of Mail

1. The collection and distribution of mail is never to be delegated to an inmate. Mail should be given directly to the receiving inmate by an employee.

2. When mail is received for an inmate who has been transferred to another institution or who is on parole, it is the duty of the institution where the mail is received to determine the location of the inmate-addressee and forward the mail to him. If the inmate has been finally discharged from custody, the mail shall be returned to sender.

I. Cancellation. This regulation supersedes Department Regulation 30-19 dated 10 December 1984.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:833(A), *Guajardo v. Esteile*, 580 F.2d 748 (5th Cir. 1978),

HISTORICAL NOTE: Promulgated by the Department of Corrections, Office of Adult Services, LR 5:4 (January 1979), amended LR 10:803 (October 1984), LR 11:360 (April 1985).

### §314. Adult Offender Telephone Use

A. Purpose. The purpose of this regulation is to establish a formal policy regarding adult offenders' use of telephones at all institutions of Corrections Services.

B. To Whom this Regulation Applies. This regulation applies to all adult offenders of all adult institutions. It is the responsibility of all wardens of adult institutions to

implement this regulation and convey its contents to all affected employees and offenders.

C. General. This regulation recognizes the importance of telephone communications in the maintenance of an offender's family ties, as well as the necessity to communicate with attorneys on pending legal matters. Therefore, this regulation is designed to allow the offender reasonable telephone communication with friends, family, and legal counsel without overtaxing the institution's ability to properly maintain security and to avoid abuse of this privilege on the part of any offender.

#### D. Minimum or Medium Custody (dormitory housing)

1. Personal or Family Calls. Collect telephone access should be available in the dorm on a relatively nonrestricted basis (with possible extension of hours on weekends). The specific hours in the various living areas at the individual institutions shall be established by the warden of each institution. The warden shall communicate the telephone schedule to the offender population by posted policy. Reasonable guidelines to ensure an orderly process of "waiting-in-line" will be necessary. The maximum time allowed is basically a function of the phone/offender ratio, but should be limited to a maximum of 15 minutes.

2. Personal or Family Calls (emergency). In a dormitory housing area, it is sufficient to rely upon the shift supervisor to consider any particularly unique or unusual circumstances.

3. Legal Calls. Offenders are generally able to place legal calls during the noon count and lunch period or after the afternoon count (when "normal office hours" are in effect for attorneys). There will be a 15-minute limit to these calls. The warden shall effect a posted policy which addresses the procedure for gaining permission from staff to place legal calls during normal office hours. Legal calls will be limited to twice per week unless the offender demonstrates in writing the need for additional phone communication. Each housing unit shall maintain a legal phone log for the purpose of monitoring the number of legal calls made by offenders on a weekly basis.

#### E. Maximum Custody (cellblock housing)

1. Personal or Family Calls (routine). Collect telephone access is generally located in the cellblock lobby. (In those situations where the phone is on the tier, the offender may be allowed access during the shower or exercise period). Lobby placement may restrict offender access. Therefore, posted policy may limit routine personal calls for offenders assigned to working cellblocks and extended lockdown. The time limit is 15 minutes.

#### 2. Personal or Family Calls (emergency)

a. In all subclasses of maximum custody, the offender is required to request consideration for this type call from the shift supervisor or unit major, who decides if the justification the offender presents warrants the request. That decision is then logged. No frequency for this type call is

established as the severity and duration of the emergency will vary greatly. The time limit shall be 15 minutes.

b. The discretion inherent in this type policy should be checked by the "Emergency Review" provision of the Administrative Remedy Procedure (P 29, Section IX). Timely review can be solicited by the offender.

3. Legal Calls. Offenders are generally able to place legal calls during the noon count and lunch period or after the afternoon count (when "normal office hours" are in effect for attorneys). There will be a 15-minute limit to these calls. The warden shall effect a posted policy which addresses the procedure for gaining permission from staff to place legal calls during normal office hours. Legal calls will be limited to once per week unless the offender in writing demonstrates the need for additional phone communication. Each housing unit shall maintain a legal phone log for the purpose of monitoring the number of legal calls made by offenders on a weekly basis.

#### F. Incoming Calls

1. Personal or Family Calls (routine). We do not accept or relay messages on a routine basis for any offender.

2. Personal or Family Calls (emergency). A form will be utilized to verify the nature of the emergency before offender notification is made. Depending upon the emergency, it may be handled by the chaplain, classification officer, or shift supervisor. When approval is required for a phone call, it will be given after the offender is notified of the nature of the emergency.

3. Legal Calls. A form will be utilized to accept and verify requests from attorneys for phone calls. Complete verification is required prior to processing. If minimum or medium custody, the offender will call from the dormitory during lunch or after work. If maximum custody, the offender may be allowed to call during normal working hours at a time which does not interfere with orderly operation of the unit. Incoming legal calls shall be included in the number of legal calls allowable per week for offenders, unless the attorney or offender demonstrates the need for additional phone use for legal purposes.

G Documentation. The documentation of the number of legal calls made by the offender as described in ' 314.D.3 and E.3 applies only to those calls made by the offender after gaining special permission from staff and not to calls made by the offender during times he has free access to the phone.

H. Third-party Calls. There shall be no third-party telephone calls initiated by any offender without prior approval of the warden. Only in exceptional cases shall third-party calls be allowed.

I. Calls to Staff. Offenders shall not be allowed to call any member of the staff of the individual institutions or headquarters. All communications by offenders to staff shall be by written communication only.

J. The effective date of this regulation is June 20, 1990.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:829.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, LR 16:536 (June 1990).

### §315. Visitation: Adult Inmates

A. Purpose. The purpose of this regulation is to establish the secretary's policy regarding inmate visiting at all adult institutions of the Department of Public Safety and Corrections.

B. Responsibility. It is the responsibility of the assistant secretary for Adult Services and all wardens of adult institutions to implement this regulation and convey its contents to all inmates, affected employees, and persons applying to visit, or persons approved to visit.

#### C. General

1. Inmates are to be permitted visitation under reasonable conditions with approved friends, relatives and other persons. Uniform visiting procedures are to be established and adhered to at all institutions under conditions and in a manner which is in keeping with the most recent court decisions on inmate visiting.

2. An inmate may refuse to see a visitor, but the inmate should sign a statement to that effect or a note placed in his file that he refuses to do so. A person may be removed from the approved visiting list at his own request or at the request of the inmate.

3. The guidelines set forth herein as to the treatment of visitors are to be strictly followed. The restrictions on visiting set forth herein are the most severe which may apply to any institution. However, the warden may limit the number of visitors which may be approved to visit each inmate, the number of visits, and the duration of the visit in accordance with the provisions of this regulation. Each warden is to promulgate the rules governing visiting at the institution(s) under his control, and such rules shall be in accordance with this regulation.

#### D. Procedure

1. Each inmate must apply to the warden or his designee to have a particular person placed on the inmate's approved visiting list. The inmate must supply a correct name, address, birth date and identify the relationship of the person to that inmate. A list shall be kept of those persons approved to visit, and a record may be kept of persons who do visit an inmate.

2. The inmate may not be prohibited, nor limited by number from receiving visits from the following persons except as provided in ' 315.D.3 and 4.

- a. identifiable parent(s), or if not raised by parents, the person(s) who raised the inmate;
- b. identifiable grandparent(s), if parent(s) not living;
- c. identifiable spouse;
- d. identifiable children;



e. identifiable sibling(s), if none of the above are on the visiting list;

f. identifiable religious or spiritual counselor; and

g. identifiable attorney(s), their employee(s) authorized by the attorney to act on his behalf, and law students engaged in approved clinical programs.

3. Restrictions on visiting may only be imposed in accordance with the following:

a. Any person may be refused approval to visit an inmate until their identity or relationship to the inmate can be established.

b. Any person may be refused approval to visit an inmate on the day that the visitor refuses to submit to a search.

c. Any person may be refused approval to visit an inmate and removed from the approved visiting list if the visitor does not comply with the rules of the institution during a visit.

d. Any person may be permanently refused approval to visit an inmate if the conduct of the visitor amounts to a violation of state and/or federal law, such as assault, battery, disturbing the peace, introduction or attempted introduction of contraband, etc.

e. Any person who is an ex-felon and who has not been finally discharged from an institution or from probation or parole supervision for more than two years without an intervening criminal record or who has pending criminal charges, may be refused approval to visit the inmate, unless the person is an identifiable parent(s), spouse, sibling(s), grandparent(s), or child of the inmate in which case the two year restriction does not apply.

f. Any person who is incarcerated or on probation or parole at the time of the requested visit may be prohibited from visiting with an inmate.

g. Any person, except an identifiable religious counselor or attorney, may be refused approval to visit with an inmate if the inmate has had his visiting privileges restricted as a penalty for a rule infraction involving visiting, or if the inmate is in isolation.

h. No person may be refused approval to visit an inmate solely upon the basis that the person did not know the inmate prior to his incarceration, unless the person applying to visit is also incarcerated.

i. Any person, except those enumerated in '315.D.2 may be refused approval to visit because the inmate has the number of persons permitted by the institution already on his visiting list, or in the case of visits from nonrelated members of the opposite sex, the inmate is married or lists as a spouse, or has as an approved visitor, a girlfriend or boyfriend who is a person other than the applicant.

j. Any person may be denied permission to visit during the time of a disturbance at the institution, if the

secretary has declared that all visiting is suspended during the emergency.

k. All minors (under age of 17) must be accompanied by an adult who is either an identifiable family member of the minor, or his legal guardian; or is on the inmate's approved visiting list. EXCEPTIONS: (1) minor spouse, (2) emancipated minors (judgment of emancipation required as proof); (3) minors visiting as part of approved institutional programs, such as but not limited to, church groups, parenting groups, etc.

#### 4. Number, Duration and Conditions of Visits

a. Each inmate should be afforded at least two visits per month, preferably on weekends. Each visiting period should be of two-hours duration.

b. The warden of each institution shall promulgate rules governing the number of visitors that may visit an inmate individually at one session, as well as the number of persons which may visit one inmate in a group, and shall submit same to the secretary for his approval. Family visiting, and orderly contact visits are to be permitted to the extent possible.

c. Attorneys, their employees, and law students in approved clinical programs may visit their clients at any time during normal working hours (8 a.m. to 5 p.m., Monday through Friday). Special visits may be arranged in accordance with '315.F. Except in emergency cases, visits by attorneys, their employees and law students in approved clinical programs must be scheduled 24 hours in advance.

d. The areas where visiting occurs shall be clean and well lighted. All visitors are to be informed orally or in writing of the rules and regulations governing visiting.

e. Privacy shall be afforded to the degree security permits when an inmate visits with legal advisors, but in no case will conversations during such visits be monitored.

f. Any visit may be terminated while in progress if the inmate or visitor violates the rules governing visiting.

#### E. Treatment of Visitors

1. There shall be no discrimination in visiting. All visitors and inmates will be provided equal opportunities in visiting, in accordance with the inmates' security class and housing assignment.

2. Visitors shall be treated with courtesy at all times and should not be subjected to unnecessary delay, inconvenience or embarrassment in accomplishing a visit.

3. Any search of a visitor's person shall be done by someone of the same sex, without force, and in a manner that will not cause embarrassment to the visitor.

#### F. Special Visits

1. The warden of each institution may approve on a case by case basis, or generally in unusual circumstances, special visits in the following cases:

a. approved visitors who are unable to visit on regular visiting days, or

b. longer visits, more visitors or more visiting periods than institutional regulations allow.

2. If the person applying to visit is otherwise restricted from visiting, the warden may approve a special visit, except when the person applying to visit the inmate is also incarcerated, prior approval from the assistant secretary of Adult Services is required.

G Cancellation. This regulation supersedes Department Regulation Number 30-19A, dated June 20, 1985. This regulation will not operate to remove any person who is currently on an inmate's approved visiting list.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:833(A).

HISTORICAL NOTE: Promulgated by the Department of Corrections, Office of Adult Services, LR 5:2 (January 1979), amended LR 11:1096 (November 1985).

### **§317. Visitation: Attorneys**

A. Purpose. To provide uniform procedures for the approval and conduct of visits by attorneys to inmates and students.

B. Responsibility. It is the responsibility of the assistant secretaries for Adult and Juvenile Services and of all wardens and superintendents to implement this regulation and to convey its contents to all offenders, affected employees and attorneys seeking to visit.

#### **C. Procedures**

1. Paralegal assistants or law clerks may be permitted to enter the institution to conduct interviews with clients of their supervising attorney, either with the attorney or by themselves. Such permission is vested solely in the discretion of the warden/superintendent, who may approve or disapprove these requests.

#### **2. Approval of Paralegals and/or Law Clerks**

a. Prior to a paralegal assistant (hereinafter paralegal) or law clerk being approved to enter the grounds of the institution, the following criteria must be met by the employing attorney. The granting of the approval will be for a period not to exceed one year.

i. The paralegal or law clerk must not be on the visiting list of any inmate confined in a Department of Public Safety and Corrections' institution.

ii. The employing or supervising attorney must submit an affidavit (see Form A) to the warden/superintendent of the institution to be visited certifying the following prior to the approval for a paralegal or law clerk to enter the institutional grounds:

(a). the name and social security number of the paralegal or law clerk;

(b). how long the paralegal or law clerk has been employed by that attorney;

(c). which law school the law student is enrolled in, or the type of certification held by the paralegal, and from which college or business school;

(d). that the named paralegal or law clerk is not listed as a visitor to any inmate confined in a Department of Public Safety and Corrections' institution; and

(e). acknowledging that should the paralegal or law clerk request to become an approved visitor of any inmate confined in a Department of Public Safety and Corrections' institution, and approval is given, that individual will no longer be permitted to enter the institution's grounds in the capacity of paralegal or law clerk.

b. The submitted information will then be verified, and the attorney notified of the disposition of the request (approved or denied). Thereafter, for a period not to exceed one year from date of approval, as long as the paralegal or law clerk continues in the employ or under the supervision of the same attorney visits may be approved by phone.

3. Scheduling. Visits by attorneys, their paralegals and law clerks must be scheduled through the institution at least 24 hours in advance. However, prior to paralegals and law clerks being approved to enter the grounds of the institution '317.C.2 of this regulation must be complied with prior to entry being granted.

4. Time of Visits. Visits by attorneys, paralegals and law clerks must normally take place during regular business hours (Monday through Friday from 8 a.m. to 4:30 p.m.).

5. Exception. The warden or superintendent may approve special visits not in conformity with '317.C.2-4 above when unusual circumstances warrant.

#### **D. Limitations on Visits**

1. Number of Offenders. Normally, no more than 10 offenders may be seen at any one time, nor more than 20 on any one day. Further limitations may be imposed by the warden or superintendent if valid reasons exist. The department's legal staff must be advised of any such limitations.

2. Number of Attorneys. Normally, no more than two persons (attorneys, paralegals, and law clerks or any combination thereof) may see an offender on any one day. Exceptions may be approved for good cause by the warden or superintendent.

#### **E. General**

1. Offenders may refuse to see any attorney, but such refusal should be placed in writing and signed by the offender.

2. A log shall be maintained of all visits by attorneys, paralegals, and law clerks.

3. Visits may be visually observed, but conversations between offenders and counsel shall not, under any circumstances, be monitored.

4. Attorneys, paralegals, and law clerks are subject to the same procedures regarding searches as are all other visitors.

F. Exception. Nothing contained in this regulation shall apply to attorneys representing the state, the Department of Public Safety and Corrections, or the institution.

G. Cancellation. This regulation supersedes Department Regulation 30-19 B dated 20 November 1985.

### Form A

STATE OF \_\_\_\_\_

PARISH/COUNTY OF \_\_\_\_\_

#### REQUEST FOR PARALEGAL/LAW CLERK APPROVAL AND AFFIDAVIT

BEFORE ME, the undersigned Notary, personally came and appeared \_\_\_\_ (1) \_\_\_\_, who after being duly sworn did depose and say that:

I am an attorney at law and I am presently representing \_\_\_\_ (2) \_\_\_\_, an inmate confined by the Louisiana Department of Public Safety and Corrections;

\_\_\_\_ (3) \_\_\_\_, \_\_\_\_ (4) \_\_\_\_, is employed by me as a \_\_\_\_ (5) \_\_\_\_ and has been so employed since \_\_\_\_ (6) \_\_\_\_.

Further, said employee is presently enrolled at \_\_\_\_ (7) \_\_\_\_ and/or has received a \_\_\_\_ (8) \_\_\_\_ certificate as a paralegal from \_\_\_\_ (9) \_\_\_\_;

\_\_\_\_ (10) \_\_\_\_ is not listed as a visitor to any inmate confined in a Louisiana Department of Public Safety and Corrections' institution;

I hereby acknowledge that should said employee request to become an approved visitor of any inmate confined in a Louisiana Department of Public Safety and Corrections' institution, and approval is given, that employee will no longer be permitted to enter the institutional grounds in the capacity of paralegal or law clerk, and that the approval to enter previously given by the institution will be rescinded; and

Should the employee leave my employ, I will notify the institution involved of this fact.

\_\_\_\_\_  
Attorney

Sworn to and subscribed before me this \_\_\_\_ day of \_\_\_\_ 19 \_\_\_\_, at \_\_\_\_\_.

\_\_\_\_\_  
NOTARY

#### KEY:

- (1) name of attorney
- (2) name of employee
- (3) name of employee
- (4) employee's social security number
- (5) paralegal, law clerk
- (6) beginning date of employment
- (7) law school if law clerk
- (8) type of paralegal certification
- (9) name of college or business school

(10) name of employee

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 15:833(A).

**HISTORICAL NOTE:** Promulgated by the Department of Public Safety and Corrections, Corrections Services, LR 11:1092 (November 1985), amended LR 12:246 (April 1986).

### §319. Visitation: Religious Groups and Religious Lay Groups

A. Purpose. The purpose of this regulation is to state the secretary's policy regarding religious lay group visitation and religious group sponsored individual lay visitation.

B. References. R.S. 15:823, 15:828, First Amendment, U.S. Constitution.

C. To Whom This Regulation Applies. This regulation is applicable to all operational units of the Department of Public Safety and Corrections, Corrections Services.

#### D. Definitions

*Recognized Churches* shall be deemed to be any religion, religious denomination or sect supported by literature stating religious principles and recognized by a group of persons who share common ethical, moral and/or intellectual views and/or values which are not defamatory, racial, political or derisive in nature.

E. General. Religion and the chaplain play a role of potential significance in the correctional institutional treatment program. Religion, if properly oriented, can become a source of hope and meaning to the offender in the midst of confusion and conflict associated with his confinement. It is even possible that religious activity can produce a clarification to purpose along with an appreciation of the worth of others. Since certain controls are necessary because of the nature of the situation, the following guidelines will be adhered to:

1. Recognized churches desiring to obtain lay visitation privileges at the various operational units must submit a list of names in writing over the pastor's personal signature endorsement to the warden or superintendent of the institution for approval. The approved list will then be transmitted to the appropriate section head at the institution authorizing such persons to receive visitation privileges. The operating unit head will establish such minimal rules as necessary to identify the individuals to preserve required security.

2. Visiting religious groups and individuals shall be oriented regarding applicable rules, regulations, policies, procedures and directives of the institution.

3. All visiting religious groups and individuals shall abide by all published rules pertaining to visitors to the institution.

4. Visitation times will be established by the warden or superintendent.

5. Movement within the operational unit and/or limitation of such movement will be at the discretion of the warden or superintendent.

6. Minors will not be allowed to visit under this regulation unless they serve a related function to the religious group. Example: minors participating in religious vocal groups.

7. Any objection or argument raised by religious visitors admitted under this policy either with personnel associated with the program at the operational units or otherwise will be brought to the personal attention of the Secretary of Public Safety and Corrections in writing by the operating unit head within 72 hours after such occurs.

F. This regulation supersedes Department Regulation Number 30-5 dated 30 November 1984.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 15:833(A).

**HISTORICAL NOTE:** Promulgated by the Department of Public Safety and Corrections, Corrections Services, Offices of Adult and Juvenile Services, LR 11:1094 (November 1985).

### **§320. Reporting and Documenting Escapes (Juvenile Services)**

A. Purpose. To establish the secretary's policy regarding the notification of law enforcement agencies of escapes from juvenile institutions within the Department of Public Safety and Corrections and the maintenance of records and details of escapes.

B. To Whom this Regulation Applies. This regulation is applicable to all superintendents within the Department of Public Safety and Corrections, Corrections Services.

C. Definitions. For the purpose of this regulation, the following definitions shall apply:

**Division Director**—the director of the Division of Institutions or the director of the Division of Evaluation and Placement.

**Escape**—the unauthorized absence of an offender from the grounds of a secure juvenile correctional institution, or from the custody of an employee while in transit, or from the lawful custody of a law enforcement officer, or failure to return from a furlough, or being absent from a secure juvenile institution without leave.

**Law Enforcement Agency**—the sheriff's office, any city police department in the parish in which the escape occurs, and the Office of State Police.

**Secure Juvenile Institution**—an institution, inclusive of subunits, that is used exclusively for juveniles who have been adjudicated delinquent and is characterized by exclusive staff control on a 24-hour basis over the rights of its residents to enter or leave the premises.

**Unit Head**—the superintendent or highest ranking Office of Juvenile Services employee physically present and in charge of a juvenile institution at the time of an escape.

#### **D. Procedure**

1. The unit head shall, within 10 minutes after being notified that a juvenile offender has escaped from or left the

premises or grounds of the institution without authority, notify, or take necessary steps to ensure the notification, of every law enforcement agency, as defined herein, and the appropriate division director. The division director shall notify the assistant secretary of the Office of Juvenile Services, who shall notify the deputy secretary of Corrections Services, who shall notify the secretary of the Department of Public Safety and Corrections.

2. The unit head shall maintain a record and description of every escape from the institution. The record shall list the following:

- a. date and time of escape;
- b. number of offenders who escaped;
- c. offense(s) for which the escapee(s) was placed at the institution;
- d. name of each law enforcement agency notified;
- e. time each law enforcement agency was notified;
- f. name of the person receiving notification; and
- g. name of the employee or agent who notified the law enforcement agency.

3. The report shall be available for public inspection and shall list all prior escapes, if any, from the institution within the last five years, or the date of the last escape. A copy of the report shall be delivered to each law enforcement agency and the assistant secretary of the Office of Juvenile Services by the end of each fiscal year.

E. The effective date of this regulation is July 20, 1991.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 15:909(1).

**HISTORICAL NOTE:** Promulgated by the Department of Public Safety and Corrections, Corrections Services, LR 17:671 (July 1991).

### **§321. Student Visiting and Correspondence (Juvenile Services)**

A. Purpose. To establish the secretary's policy regarding student visiting and correspondence at all juvenile institutions and facilities within the Department of Public Safety and Corrections.

B. To Whom this Regulation Applies. This regulation is applicable to all superintendents of juvenile operational units of the Department of Public Safety and Corrections, Corrections Services.

C. General. R.S. 15:833 provides that the secretary of the Department of Public Safety and Corrections may authorize visits and correspondence under reasonable conditions, between students and approved friends, relatives, and other persons. It is the secretary's policy that uniform visiting and correspondence procedures be established and adhered to at all units, and that visiting and correspondence be under reasonable conditions and in keeping with the most recent court decisions relating to visiting and correspondence in correctional institutions. It is also the secretary's policy that

visiting at the institution and correspondence between students and friends be encouraged and supported.

#### D. Correspondence

1. Letters. Students shall be allowed to send and receive letters from all persons including persons in other institutions. There shall be no restriction on the number of correspondents, number of letters written, the length of any letter, or the language in which a letter may be written. Before sending or receiving letters, students will be required to sign a copy of the attached form. Student mail, both outgoing and incoming, shall be handled without delay and on a daily basis.

a. Inspection of Outgoing Letters. All outgoing letters are to be posted unsealed and inspected for contraband. Exception: Outgoing legal or official mail (see following list) may be posted sealed and may not be opened except with a search warrant:

- i. identifiable courts;
- ii. identifiable prosecuting attorneys;
- iii. identifiable probation and parole officers;
- iv. identifiable state and federal departments, agencies, and their officials;
- v. identifiable attorneys;
- vi. identifiable members of the press;
- vii. secretary, deputy secretary and/or assistant secretary of the Department of Public Safety and Corrections; and

viii. for purposes of this exception, *identifiable* means that the official or legal capacity of the addressee is listed on the envelope: John Doe, Assistant District Attorney; John Doe, City Desk Editor, John Doe, Judge; John Doe, Secretary of Labor, etc. Additionally, the name, official or legal capacity, and address of the addressee must be verifiable. If the name, address, and official or legal capacity cannot be verified, designated institutional personnel shall state in writing the means employed to verify the information and the fact that it could not be determined to be correct and true. Upon the determination that this mail is not identifiable official or legal mail, said mail shall be treated as all other outgoing mail, and shall be opened and inspected for contraband.

b. Inspection of Incoming Letters. Incoming letters may be opened and inspected for contraband. Exception:

- i. letters from identifiable Department of Public Safety and Corrections' officials are not to be opened, and
- ii. letters from the following may be opened and inspected for contraband only in the presence of the student/addressee:
  - (a). identifiable courts;
  - (b). identifiable probation and parole officers;
  - (c). identifiable prosecuting attorneys;

- (d). identifiable attorneys;
- (e). identifiable members of the press; and
- (f). identifiable state and federal agencies and officials.

iii. for purposes of these exceptions, see ' 321.D.1.a of this regulation for the definition of identifiable. Upon the determination that this mail is not identifiable official or legal mail, said mail shall be treated as all other incoming mail and shall be opened and inspected for contraband.

#### c. Reading of Letters

i. When the superintendent determines that it is necessary to the maintaining of security, order, or rehabilitation of the institution, he may require the reading of a student's mail. In such cases, a written record shall be kept in the appropriate office and shall include:

- (a). student's name;
- (b). a description of the mail to be read (e.g. outgoing only from a particular person, etc.);
- (c). the specific reasons it is necessary to read the mail, including all relevant information and the names of the person(s) supplying information;
- (d). length of time the mail is to be read;
- (e). signature of the superintendent or his representative; and
- (f). notes on the nature of the mail read, but no copies of the mail unless necessary for later use as evidence.

ii. At the termination of the reading period, a copy of all but ' 321.D.1.c.i.(c) shall be placed in the student's file with the entire original remaining in the appropriate office.

d. Stationery and Stamps. The institution will provide indigent students sufficient stationery, envelopes, and postage for all legal and official correspondence and for at least two letters of personal correspondence each week. Stationery and stamps for other letters will be made available for purchases by the students.

#### 2. Packages

a. Approved Items. Subject to the approval of the assistant secretary, each superintendent will prepare and make available to the student population a list of items which may be received in packages.

b. Inspection of Packages. All packages shall be inspected for the purpose of discovering contraband. Before sending or receiving packages, students may be required to sign a form consenting to the opening of packages for the purpose of inspecting for contraband. Items which are not on the approved list will be returned to the sender with a note specifying the reasons for the return.

3. Publications. Books, magazines, newspapers, and printed matter which may be legally sent through the postal system shall be approved for students, unless deemed to

constitute an immediate threat to the security of the institutions.

4. **Withholding of Correspondence.** If it is determined that any letter or publication passed through the mail illegally or that its presence within the institution would present an immediate threat to the security of the institution, it may be withheld. However, the student shall be notified in writing of this action within five days and shall be advised of his right to appeal the decision to withhold to the superintendent and then to the secretary.

5. **Restrictions on Correspondence.** All students, regardless of status, shall be allowed to receive approved correspondence. However, those students in isolation may have their privilege of originating correspondence restricted to communications with the courts and legal counsel during the period of isolation.

6. **Collection and Distribution of Mail.** The collection and distribution of mail is never to be delegated to a student. Neither is the mail to be dropped on a table or other convenient location for each student to come and look for his own. Mail shall be delivered promptly to the student to whom it is addressed.

E. **Visiting.** The guidelines for students visiting are set forth below:

1. There will be no discrimination in visiting. All students and visitors will be provided equal opportunity for visiting, except that any who abuse the visiting procedure may expect imposition of restrictions. Disciplinary measures imposed for offenses not related to visiting will not be used as a basis for denying visits. Visits with attorneys will be governed by Department Regulation Number 30-19B. A student should not be compelled to see a visitor whom he does not wish to see, but he should be required to sign a statement to that effect.

2. At least one day per month will be set aside for visiting by parents and other approved persons, preferably on weekends. Special visits for unusual circumstances and for those who cannot visit on regular visiting days are permissible. On regular visiting days persons will be allowed to visit for at least seven hours, preferably between the hours of 9 a.m. and 4 p.m.

3. Instructions for visiting students must be furnished to parents or guardians. These instructions must be mailed to parents or guardians in advance of the visit. These should include:

- a. who may visit;
- b. days and time of visits; and
- c. rules governing visits.

4. Visitors shall be treated with courtesy at all times and shall not be subjected to unnecessary inconvenience, embarrassment, delays, or harassment in accomplishing a visit.

F. All rules, regulations, and procedures presently in force will be revised in accordance with this directive and

submitted to the secretary for approval. All subsequent revisions will also be submitted to the secretary for approval prior to their becoming effective.

G. **Cancellation.** This regulation supersedes Department Regulation 30-20 dated 8 June 1978.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 15:833(A).

**HISTORICAL NOTE:** Promulgated by the Department of Public Safety and Corrections, Corrections Services, Offices of Adult and Juvenile Services, LR 11:1094 (November 1985).

### **§323. WeaponsC Authorization to Carry**

A. **Purpose.** To establish the secretary's policy regarding the use of firearms by employees of the Department of Corrections.

B. **Responsibility.** It is the responsibility of the assistant secretaries, and all wardens and superintendents, to ensure that this regulation is implemented and enforced.

#### **C. General**

1. No employee may carry a firearm of any nature during the course of his employment, except in accordance with this regulation.

2. Employees assigned to guard towers may carry firearms while so assigned, only.

3. Other employees whose assigned duties require them to carry firearms may do so, on Department of Corrections' property and while performing their duties, only.

4. Only employees designated "special agents" may carry firearms outside department property, and then only to the extent set forth in their commissions.

5. All employees required to use firearms shall receive appropriate firearms training prior to being issued a weapon.

6. During a riot, or other large-scale declared emergency, any employee designated by the warden or superintendent may carry a firearm.

#### **D. ProceduresCSpecial Agents**

1. Only full-time permanent employees of the department may be appointed special agents.

2. Applications must be initiated by executive level supervisors within the Department of Corrections and forwarded to the appropriate assistant secretary for screening.

#### **3. Applications must include:**

- a. a current record (rap) sheet for the individual applicant;
- b. a precise statement by the supervisor, warden, or superintendent, of the need for the commission and the extent to which it should apply (escape only, court trips, etc.);

c. a certification by the recommending authority that the individual has been trained with the weapon with which he will be armed.

E. Restrictions

1. Employees may carry firearms only while performing the duties for which they have been authorized to do so.

2. No use is to be made of a commission issued by the secretary of corrections other than the performance of the specific duties for which the commission is issued.

3. Special agent commissions will be issued and in effect solely at the discretion of the secretary of corrections and may be denied or canceled with or without stated cause.

F. Effective Date. This regulation shall take effect on January 1, 1979.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:825.2.

HISTORICAL NOTE: Promulgated by the Department of Corrections, Office of Adult Services, LR 4:487 (December 1978).

**§325. Administrative Remedy Procedure**

A. Purpose. Corrections Services has established an administrative remedy procedure through which an offender may seek formal review of a complaint which relates to any aspect of his imprisonment if less formal procedures have not resolved the matter. Pursuant to R.S. 15:1171(B), amended in 1989 under Act Number 463, such complaints and grievances include but are not limited to, any and all claims seeking monetary, injunctive, declaratory, or any other relief authorized by law and by way of illustration, includes actions pertaining to conditions of confinement, personal injuries, medical malpractice, time computations, even though urged as a writ of habeas corpus, or challenges to rules, regulations, policies, or statutes. Through this procedure, offenders shall receive reasonable responses and where appropriate, meaningful remedies. This procedure applies to all offenders confined in all Corrections Services institutions, including juvenile institutions. (The words *inmate* and *offender* can be used interchangeably and may refer to either adults or juveniles.)

B. Adoption of Procedure. This procedure implements and clarifies the intent of the secretary's September 30, 1974 memorandum on inmate grievances. It differs from that procedure by requiring offenders to exhaust remedies administratively at their units before requesting review by the secretary of the Department of Public Safety and Corrections. This formalization of the administrative remedy procedure additionally codifies the experiences and suggestions of employees and offenders of the Department of Corrections over the years. This procedure is in compliance with the requirements of 42 USC 1997 the *Civil Rights of Institutionalized Persons Act*, or CRIPA and Part 40 of Title 28, *Code of Federal Regulations*.

C. Applicability

1. Offenders may request administrative remedies to situations arising from policies, conditions, or events within the institution that affect them personally.

2. There are three procedures already in place within all Corrections Services institutions, which procedures are hereby specifically and expressly incorporated into and made a part of this administrative remedy procedure. These procedures shall constitute the administrative remedies for disciplinary matters, denial of publications, and lost property claims.

a. Disciplinary Process, Appendix A, Disciplinary Rules for Adult Prisoners, as revised;

b. Denial of Publications, Appendix B, Department Regulation Number 30-19, as revised;

c. Lost Property Claims, Appendix C, Department Regulation Number 30-22A, as revised.

3. The following matters shall not be appealable through this administrative remedy procedure:

a. court decisions and pending criminal matters over which the department has no control or jurisdiction;

b. Pardon Board and Parole Board Decisions. Under Louisiana law, decisions of these Boards are discretionary and may not be challenged;

c. Lockdown Review Board Decisions. Inmates are furnished written reasons at the time of their Lockdown Review Board hearings as to why they are not being released from lockdown, if that is the case. The board's decision may not be challenged. There are, however, two bases for request for administrative remedy on Lockdown Review Board hearings:

i. that no reasons were given for the decision of the board;

ii. that a hearing was not held within 90 days from the offender's original placement in lockdown or from the last hearing. There will be a 20-day grace period attached hereto due to administrative scheduling problems of the board, therefore, a claim based on this ground will not be ripe until 110 days have passed and no hearing has been held.

D. Definitions. As used in this procedure, the following definitions shall apply:

*Days* Calendar days.

*Emergency Grievance* A matter in which disposition within the regular time limits would subject the offender to a substantial risk of personal injury, or cause other serious and irreparable harm to the offender.

*Grievance* A written complaint by an offender on the offender's own behalf regarding a policy applicable within an institution, a condition within an institution, action involving an offender of an institution, or an incident occurring within an institution.

*Initiation of the Process* For a particular complaint, the administrative remedy procedure shall commence the day the unit head refers the request to a staff member for the first step.

*Offender* Can adult or juvenile incarcerated in a correctional institution.

*Unit Head* Warden of an adult institution or superintendent of a juvenile institution, or his designee.

E. Policy. All offenders, regardless of their classification, impairment, or handicap, shall be entitled to invoke this grievance procedure. It shall be the responsibility of the unit head to provide appropriate assistance for offenders with literacy deficiencies or language barriers. No action shall be taken against an offender for the good faith use of or good faith participation in the procedure. Reprisals of any nature are prohibited. Offenders are entitled to pursue, through the grievance procedure, a complaint that a reprisal occurred.

1. Offender and Employee Participation. Offenders and employees shall be given an opportunity to participate in an advisory capacity in the disposition of grievances challenging general policy and practices. At each institution, inmates and employees who are interested in participating in this capacity should send their names in to the supervisor of the Internal Affairs Section in order that he may maintain a list of interested persons. Upon determining that a complaint of this nature has been made, the supervisor of the Internal Affairs Section shall randomly choose at least two offenders and at least two employees whose names appear on the list of interested persons from the institution from which the complaint arose, and seek written advisory comments. Names and specific facts will be deleted, and only questions of a general nature will be asked. These comments shall be advisory only, and shall not be binding or obligatory in any fashion.

2. Reviewers. If an offender registers a complaint against a staff member, that employee shall not play a part in making a decision on the request. However, this shall not prevent the employee from participating as a step one respondent, since the employee complained about may be the best source from which to begin collecting information on an alleged incident. In such a case, step one will be an information-gathering step, rather than one which gives rise to a decision. If the offender is not satisfied with the information gathered at step one, he should pursue his grievance to the unit head via step two, where a decision on the matter shall be made.

3. Communications. New employees and incoming offenders must be made aware of the system in writing and by oral explanation at orientation and should have the opportunity to ask questions and receive oral answers. The procedures shall be posted in writing in areas readily accessible to all employees and offenders.

4. Written Responses. At every stage of decision and review, offenders will be provided written answers that explain the information gathered or the reason for the decision reached and a statement of any provision for further

review, along with simple directions for obtaining such review.

5. Review and Comment. The unit head shall annually solicit comments and suggestions on the handling of requests, the efficiency of the procedures and the credibility of the procedures from offenders and staff and report the results of such review to the supervisor of the Internal Affairs Section.

#### F. Procedure

1. Screening. The unit head will screen all requests prior to assignment to the first step. This discretionary decision should not unreasonably restrain the offender's opportunity to seek a remedy. If a request is rejected, it must be for one of the following reasons, which shall be noted on Form ARP-1, citing reasons for rejection:

a. This matter is not appealable through this process, such as:

- i. court decisions;
- ii. Parole Board/Pardon Board decisions;
- iii. Lockdown Review Board (see ' 325.C.3, supra), and must be handled through these processes.

b. There are specialized administrative remedy procedures in place for this specific type of complaint, such as:

- i. disciplinary matters;
- ii. denial of publications;
- iii. lost property claims (see ' 325.C.2, supra), and must be handled through these processes.

c. It is a duplicate request. (Rejected for individual handling only). In cases where a number of offenders have filed similar or identical requests seeking administrative remedy, it is appropriate to respond only to the offender who filed the initial request. Copies of the decision sent to other offenders who filed requests simultaneously regarding the same issue will constitute a completed action. All such requests will be logged.

d. The complaint concerns an action not yet taken or decision which has not yet been made.

e. There has been a time lapse of more than 30 days between the event and the initial request.

f. Another offender has already requested review of the same issue. (Rejected for individual handling. Will be logged in and a copy of the completed prior administrative remedy will be furnished to offender).

g. The offender has requested a remedy for another offender.

h. The offender has requested a remedy for more than one incident (a multiple complaint).

i. Established rules and procedures have not been followed.



Notice of the request's initial acceptance or rejection will be given via the Offender's Relief Form, Form ARP-1.

## 2. Initiation of Process

a. Offenders should always try to resolve their problems within the institution informally, before initiating the formal process. This informal resolution may be attempted by talking to staff members, unit heads, etc. If the inmate is unable to resolve his problems or obtain relief in this fashion, he may initiate the formal process.

b. The method by which this process is initiated is by a letter from the offender to the unit head. For purposes of this process, a letter is:

i. any form of written communication which contains this phrase: *This is a request for administrative remedy*, or

ii. at institutions which wish to furnish forms for commencement of the process, the form.

c. No request for administrative remedy shall be denied acceptance into the administrative remedy procedure because it is or is not on a form; however, no letter as set forth in ' 325.F.2.b.i shall be accepted into the process unless it contains the phrase, *This is a request for administrative remedy*.

d. Nothing in this procedure should serve to prevent or discourage an offender from communicating with the unit head or anyone else in the Department of Public Safety and Corrections. The requirements set forth in this document for acceptance into the administrative remedy procedures are solely to assure that incidents which may give rise to a cause of action will be handled through this three-step system of review. All forms of communication to the unit head will be handled, investigated, and responded to as the unit head deems appropriate, as in the past.

## 3. Abuse of the Procedure

a. If an offender submits multiple requests during the period of step one review of his first request, the first request will be accepted and handled. The others will be logged and set aside for handling at the unit head's discretion. The unit head may determine whether a letter of instruction to the offender is in order. If such a letter is sent, a copy shall also be sent to the supervisor of the Internal Affairs Section.

b. If a request is unclear or the volume of attached material is too great, it may be rejected and returned to the offender with a request for clarity or summarization on one additional page. The deadline for this request begins on the date the resubmission is received in the unit head's office.

c. If an offender refuses to cooperate with the inquiry into his allegation, the request may be denied by noting the lack of cooperation on the appropriate step response form and returning it to the offender.

## 4. Reprisals

a. No action shall be taken against anyone for the good faith use of or good faith participation in the procedure.

b. The prohibition against reprisals should not be construed to prohibit discipline of offenders who do not use the system in good faith. Those who file requests that are frivolous or deliberately malicious may be disciplined under the appropriate rule violation described in the *DOC Handbook for Adult Prisoners or Offender Rules, Juvenile Corrections Institutions*.

## G Process

### 1. First Step (Step One/Time Limit-15 days)

a. The offender commences the process by writing a letter to the unit head, in which he briefly sets out the basis for his claim, and the relief sought (see ' 325.F.2, supra for requirements of letter). The offender should make a copy of his letter of complaint and retain same for his own records. The original letter will become a part of the process, and will not be returned to the offender. The institution is not responsible for furnishing the offender with copies of his letter of complaint. This letter must be written to the unit head within 30 days of an alleged event. (This requirement may be waived where circumstances warrant: If the offender was ill and unable to write, etc. The screening officer will use his best, reasonable judgment in such matters.) The requests shall be screened in the unit head's office, and, if appropriate for handling through the administrative remedy procedure, shall be forwarded to the staff member who could best afford relief (example: general security concerns would likely be referred to the camp major; food complaints to the kitchen supervisor; medical complaints to the medical director or hospital administrator, etc.). Alternatively, the request might be referred to the staff member named in the complaint, if any. In such a case, step one will be more of an information gathering step than a decision-making step. In a case where the request is referred directly to a staff member named in the complaint, it is anticipated that furnishing the offender with information as to how or why a certain action was taken will serve to resolve the grievance. In such an instance, the staff member's response will be furnished to his supervisor for review. If the supervisor feels that the response was inadequate or inappropriate for any reason, he shall intervene to affect any necessary changes, and shall document same in the step one respondent's file which he maintains.

b. The unit head's office will send notice to the offender via Form ARP-1 that his request is either being processed, or is being rejected, as per the screening policy. The first step respondent will respond to the offender within 15 days from the date the request is referred to the first level respondent by the unit head.

c. At times, it is appropriate for an administrative remedy procedure request to be accepted at the second step. On such occasions, the 15 days assigned to the first step are added to the time limitation provided at the second step, thus giving the unit head 40 days to handle the problem at the institution.

2. **Second Step** Unit Head's Review (Step Two/Time Limit-25 Days). An offender who is not satisfied with the results of his first step attempt may request relief from the unit head by completing the second step section of Form ARP-1. This second step request must be received in the unit head's office within five days of the offender's receipt of the reply to his first step attempt. The unit head shall see to it that the offender receives his response in writing within 25 days of receipt of the request for second step review. If the offender's reason for second step review requires that he use additional paper to explain himself, the offender must make a copy of the extra page for his records and a copy to be submitted at step three, should he pursue the matter to that step.

3. **Third Step** Secretary's Review (Step Three/Time Limit-40 Days). An offender who is dissatisfied with the second step review may appeal to the secretary of the Department of Public Safety and Corrections. He should attach all appropriate documents and responses from step one and two reviewers and mail the package directly to: Supervisor, Internal Affairs Section, Box 94304, Baton Rouge, LA 70804-9304, post marked within five days of the date of the second step response. A final decision will be made by the secretary and the offender will be notified by mail postmarked within 40 days of the receipt of the appeal by Internal Affairs. A copy of the appeal and the secretary's response will be sent to the unit head for filing.

4. If an offender is not satisfied with the third step response, he may seek judicial review of the decision pursuant to R.S. 15:1177 within 30 days after receipt and signing of the decision. The offender must furnish the administrative remedy procedure number in the appropriate space on the court forms.

#### 5. Monetary Damages

a. The Internal Affairs Section of the Department of Public Safety and Corrections, Corrections Services, based upon credible facts within a grievance or complaint filed by an offender, may determine that such an offender is entitled to monetary damages where monetary damages are deemed by the department as appropriate to render a fair and just remedy. Internal Affairs shall consult with the Legal Section of the Department of Public Safety and Corrections, Corrections Services, to determine if monetary damages are appropriate for a fair and just remedy.

b. Upon a determination that monetary damages should be awarded by the department, the remaining question is quantum, or the determination as to the dollar amount of the monetary damages to be awarded to an offender. The matter of determining quantum shall be transferred to the Office of Risk Management of the Division of Administration which shall then have the discretionary power to determine quantum. The determination reached by the Office of Risk Management shall be returned to the Legal Section, Corrections Services, for final decision on the Office of Risk Management's recommendation. If a settlement is reached, a copy of the signed release shall be given to Legal Programs on that same date.

#### H. Deadlines and Time Limits

1. No more than 90 days from initiation to completion of the process shall elapse, unless an extension has been granted. Absent such an extension, expiration of response time limits shall entitle the offender to move on to the next step in the process. Time limits begin on the date the request is assigned to a staff member for a first step response.

2. An offender may request an extension in writing of up to five days in which to file at any stage of the process. This request shall be to the unit head for steps one and two, and to the supervisor of the Internal Affairs Section for step three. The offender must certify valid reasons for the delay, which reasons must accompany his untimely request. The issue of sufficiency of valid reasons for delay shall be addressed at each step, along with the substantive issue of the complaint.

3. The unit head may request permission for an extension of not more than five days from the supervisor of the Internal Affairs Section. The offender must be notified in writing of such an extension.

4. The supervisor of the Internal Affairs Section may grant a response time extension of five days for the third step response. The offender must be notified in writing of such an extension.

5. In no case may the cumulative extensions exceed 25 days.

#### I. Emergency Review

1. At all Corrections Services institutions, an offender may obtain immediate medical attention by declaring himself a medical emergency. Also, if an offender fears for his personal safety, he may ask that he be placed in lockdown as a protection case. A procedure for handling these two emergency situations is already in place within all of the institutions.

2. For situations other than the above, if an offender feels he is subjected to emergency conditions, he shall send an emergency request to the shift supervisor. The shift supervisor shall immediately forward the request to the level at which corrective action can be taken. The request shall be handled as expeditiously as possible, and shall be reviewed at the headquarters level by the secretary or his designee. All emergency requests shall be documented on a warden's Unusual Occurrence Report or other form of incident report and filed in the offender's institutional file.

3. Abuse of the emergency review process by an offender shall be treated as a frivolous or malicious request and the offender shall be disciplined accordingly (see '325.F.4 supra). Particularly, but not exclusively, matters relating to administrative transfers, time computation disputes, and family illness or death are NOT to be treated as emergencies for purposes of this procedure, but shall be expeditiously and compassionately handled by the shift supervisor, where appropriate.

#### J. Sensitive Issues

1. If the offender believes the complaint is sensitive and that he would be adversely affected if the complaint became known at the institution, he may file the complaint directly with the supervisor of the Internal Affairs Section (third step level). The offender must explain, in writing, the reason for not filing the complaint at the institution.

2. If the supervisor of the Internal Affairs Section agrees that the complaint is sensitive, he shall accept and respond to the complaint. If he does not agree that the complaint is sensitive, he shall so advise the offender in writing, and return the complaint. When this occurs, the supervisor of the Internal Affairs Section shall also send a copy of this memo to the unit head's office. The offender shall then have five days from the date the rejection memo is received in the unit head's office to submit his request through regular channels (beginning with the first step if his complaint is acceptable for processing in the administrative remedy procedure).

#### K. Records

1. Administrative remedy procedure records are confidential. Employees who are participating in the disposition of a request may have access to records essential to the resolution of requests. Otherwise, release of these records is governed by R.S. 15:574.12.

2. All reports, investigations, etc., other than the offender's original letter and Forms ARP-1 through 4, are prepared in anticipation of litigation, and are prepared to become part of the attorney's work product for the attorney handling the anticipated eventual litigation of this matter and are therefore confidential and not subject to discovery.

#### 3. Records will be maintained as follows:

a. A log (on computer) will be maintained by the unit head which will document the nature of each request, all relevant dates, and disposition in the first and second steps.

b. The supervisor of the Internal Affairs Section will submit a summary report to the secretary as of December 31 of each year. This report will show the number, type, and disposition of requests by institutions and should be provided to the secretary no later than March 30 of the new year.

c. Individual requests and dispositions, and all responses and pertinent documents shall be kept on file at the unit head's office or at headquarters.

d. Records shall be kept at least three years following final disposition of the request. The supervisor of the Internal Affairs Section shall formulate a procedure for orderly disposal of these records.

L. Transferred Offenders. When an offender has filed a request at one unit and is transferred prior to the review, or if he files a request after transfer on an action taken by the sending unit, the sending unit will complete the processing through the second step (unit head's review). The unit head of the receiving unit will assist in communication with the offender.

M. Discharged Offenders. If an offender is discharged before the review of an issue that affects the offender after discharge is completed, or if he files a request after discharge on such an issue, the unit will complete the processing and will notify the offender at his last known address. All other requests shall be considered moot when the offender discharges, and shall not complete the process.

N. The effective date of this regulation is January 20, 1991. This regulation supersedes Department Regulation 3040 dated November 20, 1985.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1171 through 1176.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, Offices of Adult and Juvenile Services, LR 11:1089 (November, 1985), amended LR 17:68 (January 1991).

### §327. Introduction of Contraband at Adult and/or Juvenile Operational Units

A. Purpose. To establish the secretary's policy regarding the procedure to be followed when it is determined that individuals have introduced or attempted to introduce contraband into an adult or juvenile operational unit.

B. To Whom This Regulation Applies. This regulation is applicable to all wardens and superintendents within the Department of Public Safety and Corrections, Corrections Services.

#### C. General

1. It is the secretary's policy that any individual, be it employee or visitor, found to have introduced or attempted to introduce contraband into an adult or juvenile operational unit shall be detained by authority of Code of Criminal Procedure Article 215.2 and turned over to the local law enforcement authorities for prosecution for violation of R.S. 14:402. For purposes of this regulation, *contraband* shall be defined as: *Any article, substance, or thing which is not issued by the authorities operating the facility, sold through the institutional canteen, specifically permitted by applicable regulations, or otherwise specifically authorized by the head of the facility or his designee. Contraband includes but is not limited to any substance or device defined in the Uniform Controlled Dangerous Substances Law except where prescribed by a physician, provided the drugs are contained in a container from the drug store bearing the full identification of the doctor who issued the drugs, the druggist who dispensed same, and the number of the prescription, and that said drugs are not concealed upon the body of the person; any weapons or devices designed to kill or wound or any plans for the making or manufacturing of such weapons or devices; explosives or combustibles; any plans for escape from an institution; intoxicating beverages; stolen property, and money which is legal tender except when specifically authorized by applicable regulations.*

2. Any contraband seized shall be retained and turned over to the local law enforcement officials as evidence.

3. Unusual Occurrence Reports documenting the incident(s) shall be prepared in accordance with Department Regulation Number 30-1.

4. See Department Regulation Number 20-25(A) re: Searches of Employees. See Department Regulation Number 30-25(B) re: Searches of Visitors.

(This regulation supersedes Department Regulation Number 30-8A dated 27 March 1985).

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 14:110.

**HISTORICAL NOTE:** Promulgated by the Department of Public Safety and Corrections, Corrections Services, Offices of Adult and Juveniles Services, LR 11:1093 (November 1985).

### **§329. Inmate Marriage Requests**

A. Purpose. To establish the secretary's policy and procedures for marriages of inmates incarcerated by the Department of Public Safety and Corrections.

B. To Whom This Regulation Applies. This regulation is applicable to all adult operational units (institutions and satellite facilities) of the department.

#### **C. General**

1. The warden shall notify all incarcerated persons under his jurisdiction of the department's policy concerning an inmate's request to be married. When such a request is received, the warden/supervisor shall:

a. determine whether the party to which the inmate wishes to be married is not in criminal custody. If both parties are incarcerated in correctional institutions, the marriage may be postponed until one of them has been released;

b. discuss the marriage with both parties, either personally or through one of the chaplains;

c. document that the parties were counseled with regarding the proposed marriage.

2. Should the chaplain not wish to perform the marriage, he should so inform both parties. The chaplain/warden should counsel with whoever is to perform the marriage to ensure that he is fully aware of the situation of the inmate.

3. Absent unusual circumstances, the warden shall approve the marriage request and set an appropriate time and place for the ceremony. Furloughs will not be granted for a marriage.

4. The warden shall notify the secretary by letter of the inmate's marriage.

D. Cancellation. This regulation supersedes Department Regulation 30-23 dated 5 October 1984.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 15:823.

**HISTORICAL NOTE:** Promulgated by the Department of Public Safety and Corrections, Corrections Services, Offices of Adult and Juvenile Services, LR 11:1093 (November 1985).

### **§331. Emergency Medical Treatment for Visitors**

A. Purpose. The purpose of this regulation is to provide guidelines for the provision of medical treatment to visitors of the Department of Public Safety and Corrections, Corrections Services, facilities.

B. To Whom This Regulation Applies. Applicable to all Louisiana Department of Public Safety and Corrections, Corrections Services, facilities.

C. General. Emergency medical treatment will be provided by Department of Public Safety and Corrections' medical staff to visitors of any department facility whenever necessary to protect life or limb and relieve undue suffering. Such services will be provided which are necessary to stabilize the patient until such time as the patient can be transported to his private provider or the nearest public hospital.

D. Cancellation. This regulation supersedes Department Regulation Number 30-37 dated 2 July 1984.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 15:833(A).

**HISTORICAL NOTE:** Promulgated by the Department of Public Safety and Corrections, Corrections Services, Offices of Adult and Juvenile Services, LR 11:1093 (November 1985).

### **§333. Forfeiture of Good Time for Escape or Battery on an Employee of the Department**

A. Purpose. To provide for rules related to the forfeiture of good time from inmates who escape or commit battery on an employee of the Department.

B. Applicability. Assistant Secretary, Office of Adult Services, all Wardens of adult institutions, Directors of Community Rehabilitation Centers and local detention facilities.

#### **C. Definitions**

**Aggravated Escape** The intentional, unauthorized departure under circumstances wherein human life was endangered of an inmate from the grounds of an institution, a designated area or place within an institution, the custody of Corrections' personnel while off the grounds of an institution, the custody of any law enforcement officer, or the departure of a work release inmate from the designated area where he is legally confined; the failure of an inmate participating in a work release program to report or return from his planned employment or other activity at the appointed time; or the failure of an inmate on furlough to return to his place of confinement at the appointed time. For the purpose of this regulation, the commission of a crime while on escape constitutes aggravated escape.

**Battery of an Employee** Battery of an employee is a battery committed without the consent of the victim when the inmate has reasonable grounds to believe the victim is an employee acting in the performance of his duties. This includes the use of force or violence upon the person of an employee by throwing feces, urine, blood, saliva, or any form of human waste by an inmate.



wardens, and director of the Division of Youth Services of the Department of Public Safety and Corrections.

### C. Definitions

**Adult** Can individual convicted by a criminal court and sentenced to the custody of the Department of Public Safety and Corrections (DPS&C).

**Disposition** The written order of the juvenile court, following adjudication, which specifies the court's sentence.

**Juvenile** Can individual who is adjudicated delinquent by a judge exercising juvenile jurisdiction and sentenced to the custody of the DPS&C.

### D. Policy

1. It is the secretary's policy, in accordance with R.S. 15:902.1, to authorize the limited transfer of juveniles adjudicated delinquent to adult facilities when the juveniles have attained the age of 17 years and are otherwise eligible as defined by this regulation.

2. Juvenile offenders who are adjudicated delinquent for an offense that, if committed by an adult, could not result in a sentence at hard labor, are not eligible for transfer.

3. Generally, juvenile offenders will be transferred to one of the following adult facilities:

- a. Adult Reception and Diagnostic Center (ARDC);
- b. Elayn Hunt Correctional Center (EHCC);
- c. Wade Reception and Diagnostic Center (WRDC);
- d. David Wade Correctional Center (DWCC);
- e. Louisiana Correctional Institute for Women (LCIW).

4. Juvenile offenders in adult facilities will not have a parole or diminution of sentence release date.

a. They will only have a "full term date." This date will be either:

- i. their twenty-first birthday;
- ii. their eighteenth birthday if the crime was committed before their thirteenth birthday and it is not a crime enumerated under *Louisiana Children's Code*, Article 897.1;

iii. the date upon which the juvenile has completed the period of commitment as specified in the judgment of the juvenile court; or

iv. the date which reflects the maximum term that an adult could receive if sentenced for the same offense, whichever is earlier.

b. If the period of commitment specified by the juvenile court exceeds the twenty-first birthday, the eighteenth birthday under circumstances outlined, or the maximum term for which an adult could be sentenced for the same crime, then the Office of Youth Development and the Headquarters Legal Section should be notified immediately.

5. Absent special statutory or regulatory restrictions to the contrary, juveniles in adult facilities will participate in all work, education, and other rehabilitative programs on the same basis as adults and will be subject to the same classification and disciplinary processes as adults, including custody status determination. Security supervision and security practices will also be the same for juvenile offenders in adult facilities as for adult inmates.

6. Records of juveniles housed in adult facilities shall be confidential and information may not be disclosed to anyone except in accordance with department Regulation No. B-03-003, "Access to and Release of Juvenile Offender and Ex-Offender Records," as set forth in R.S. 15:574.12 and *Louisiana Children's Code*, Article 412.

### E. Procedures

1. A classification committee will be formed at all juvenile facilities to review offenders for eligibility and suitability for transfer and to make appropriate recommendations to the warden. It will be the responsibility of this committee to review all relevant information.

a. The offender shall be given 24-hour notice of the proposed transfer and shall be allowed to appear before the classification committee to provide input into the decision making process. He may select a staff representative to assist him in accordance with the process outlined in the "Disciplinary Rules and Procedures for Juvenile Offenders."

b. The following variables should be considered by the classification committee when evaluating a juvenile offender for possible transfer to an adult facility:

- i. chronological age of 17 years or older;
- ii. emotional and physical maturity;
- iii. disciplinary history and potential to disrupt juvenile institutional operations;
- iv. potential to benefit from educational programs;
- v. potential to benefit from other programs;
- vi. offenders diagnosed with mental health and/or medical special needs who can be better served in an adult facility;
- vii. offenders who pose a threat to security, i.e., who are considered escape risks, who have exhibited violent behavior, who are committed for serious offense(s), or who have an extensive criminal history;

viii. to accomplish one of the following objectives:

- (a). minimize risk to the public;
- (b). minimize risk to institutional staff; and
- (c). minimize risk to other offenders.

c. Disciplinary history may impact the recommendation, but the transfer itself is not a disciplinary sanction or disciplinary activity. The disciplinary committee can refer offenders to the classification committee for review.

2. The warden of each juvenile facility will review the recommendation made by the classification committee and will make the final determination relative to transfer. The secretary and assistant secretaries will be notified of any transfer. In addition, the warden will provide notification to the appropriate juvenile judge, Division of Youth Services office, the legal guardian, and the classification administrator at ARDC, and WRDC. The notification must be given at least 72 hours prior to the proposed transfer, unless waived by the secretary or his designee.

3. Notification to the classification administrator at ARDC should include pertinent information, e.g., the Juvenile Information Reporting Management System (JIRMS) master record, judicial commitment documents, classification committee report and recommendation, and warden's decision. ARDC PreClass Section will then assign a unique six digit Department of Corrections (DOC) number to each juvenile-in-adult custody (such number will begin with the numeral seven followed by the juvenile's original JIRMS number), update the CAJUN II information, and establish the adult institutional record prior to transfer (except in emergency cases). The classification administrator will schedule the date of transfer and will notify the appropriate juvenile institution.

4. The sending facility will be responsible for the transportation of the offender to the appropriate receiving institution and will provide all institutional and medical records at the time of transfer in accordance with department Regulation No. B-06-001, "Health Care." The offender's personal funds should be transmitted by check at the time of transfer or as soon as possible thereafter. In addition, the JIRMS transfer screen will be updated to reflect the transfer and will be subsequently utilized for inquiry purposes.

5. Initial evaluation to determine appropriate housing while in the reception process should include evaluation of emotional and physical maturity.

6. ARDC, WRDC, or LCIW will conduct a full evaluation in accordance with department regulations and ACA Standards to determine subsequent placement at EHCC or DWCC (or suitable housing assignment at LCIW). The evaluation will include, but is not limited to, the following:

- a. emotional and physical maturity to evaluate the need for assignment to Level 1 or Level 2 protective custody;
- b. review of information previously generated by JRDC, as available;
- c. history of gang affiliation and prior juvenile institutional assignment and security history;
- d. special educational needs or other programming needs and the appropriateness of assignment to academic and/or vocational programs;
- e. medical needs, including substance abuse assessment, and assignment of an appropriate medical level of care;

f. mental health needs with particular emphasis on suicide potential and assignment of an appropriate mental health level of care; and

g. consideration of geographical location.

7. Upon completion of evaluation, the Transfer Section at ARDC will schedule transfer to the appropriate permanent facility.

8. The receiving institution will assign housing and provide services as set forth in department regulations and American Correctional Association (ACA) Standards. The records office of the receiving institution will maintain the juvenile institutional record and the adult inmate record and will update the CAJUN database. Upon discharge, all institutional records will be returned to the Juvenile Reception and Diagnostic Center at Jetson Correctional Center for Youth.

9. The adult facility must report the location and condition of the juvenile to the juvenile court every six months (or more frequently if requested). This format may be utilized to make early release recommendations as appropriate.

10. Sex offender notifications are generally not applicable to juvenile offenders housed in adult facilities. Other crime victim notice requirements for juveniles as indicated in department Regulation No. C-01-007, "Crime Victims Services Bureau," are applicable.

11. Visiting lists will be established pursuant to the provisions of department Regulation No. C-03-006, "Inmate Visitation." These transfers are to be considered as new admissions for the purposes of ' 335.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 15:902.1.

**HISTORICAL NOTE:** Promulgated by the Department of Public Safety and Corrections, Corrections Services, LR 24:104 (January 1998).

### **§337. Sex Offender Treatment Plan and Program**

A. PolicyCto institute the secretary's policy and procedures for providing a sex offender treatment plan and program as set forth pursuant to the laws of this state.

B. ApplicabilityCassistant secretary/Office of Adult Services, director of probation and parole, Board of Parole, all wardens of adult institutions, and local facility administrators.

C. Sex Offender Treatment Plan Pursuant to R.S. 15:538(C)

1. No sexual offender whose offense involved a minor child who is 12 years old or younger or who is convicted two or more times of a violation of the following shall be eligible for probation, parole or suspension of sentence, or diminution of sentence if imposed as a condition by the sentencing court pursuant to R.S. 15:537, unless, as a condition thereof, the offender undergoes a treatment plan based upon a mental health evaluation:

- a. R.S. 14:42 aggravated rape;

- b. R.S. 14:42.1 forcible rape;
- c. R.S. 14:43 simple rape;
- d. R.S. 14:43.1 sexual battery;
- e. R.S. 14:43.2 aggravated sexual battery;
- f. R.S. 14:43.3 oral sexual battery;
- g. R.S. 14:43.4 aggravated oral sexual battery;
- h. R.S. 14:78 incest;
- i. R.S. 14:78.1 aggravated incest; or
- j. R.S. 14:89.1 aggravated crime against nature.

2. Mental health evaluation means an examination by a qualified mental health professional with experience in treating sex offenders. Each institution and the Division of Probation and Parole shall make arrangements with qualified mental health professionals for the purpose of conducting evaluations and to develop and implement treatment plans.

3. The treatment plan shall be based upon a mental health evaluation and shall effectively deter recidivist sexual offenses by the offender, thereby reducing the risk of reincarceration of the offender and increasing the safety of the public, and under which the offender may reenter society.

4. The treatment plan may include:

- a. the utilization of medroxyprogesterone acetate treatment or its chemical equivalent as a preferred method of treatment;
- b. a component of defined behavioral intervention if the evaluating qualified mental health professional determines that such is appropriate for the offender.

5. The provisions of R.S. 15:538(C) shall only apply if parole, probation or suspension of sentence, or conditioned diminution of sentence is permitted by law and the offender is otherwise eligible.

6. If on probation or subject to a sentence that has been suspended, the offender shall begin medroxyprogesterone acetate, or chemical equivalent treatment as ordered by the court or a qualified mental health professional and medical staff.

7. If medroxyprogesterone acetate or chemical equivalent treatment is part of an incarcerated inmate's treatment plan, the inmate shall begin such treatment at least six weeks prior to release on parole.

8. Once a treatment plan is initiated based upon a mental health evaluation, it shall continue unless it is determined by a physician or qualified mental health professional that it is no longer necessary. The attending physician or qualified mental health professional may seek a second opinion.

9. If an offender voluntarily undergoes a permanent, surgical alternative to hormonal chemical treatment for sex offenders, he shall not be subject to these provisions.

10. Before beginning medroxyprogesterone acetate or chemical equivalent therapy, the offender shall be informed about the uses and side effects of medroxyprogesterone therapy, and shall acknowledge in writing that he has received this information (see §337.F).

11. The offender shall be responsible for the costs of the evaluation, the treatment plan, and the treatment.

a. If the offender is not indigent, these services will be rendered by an outside mental health provider based upon a fee schedule established by the Department of Public Safety and Corrections. If the offender is on probation or under parole supervision, services will be rendered at the provider's place of business. If the offender is housed in an institution, services will be rendered by the provider at the state or local facility. In either event, the Department reserves the right to determine the eligibility within the Department of Health and Hospitals.

b. Indigent offenders who are on probation or under parole supervision will be responsible for seeking services through the Department of Health and Hospitals, Office of Mental Health (with assistance as needed from their probation and parole officer). The provision of such services is strictly subject to the availability of resources and programs within the Department of Health and Hospitals. If the offender is housed in a state institution, services will be provided by Department of Public Safety and Corrections' mental health staff. A set-up fee will be charged to the inmate based upon the fee scale for non-indigent inmates and the inmate's account shall reflect the cost of the service as a debt owed. Indigent offenders housed in local facilities requiring these services should be transferred, if possible, to ARDC/WRDC. In unusual circumstances when this is not possible, services for these offenders shall be coordinated by the facility administrator with the Department of Health and Hospitals, Office of Mental Health (with assistance, as needed, of the Office of Adult Services or the Basic Jail Guidelines Regional Team Leader.) The provision of such services is strictly subject to the availability of resources and programs within the Department of Health and Hospitals.

12. Chemical treatment shall be administered through a licensed medical practitioner. Any physician or qualified mental health professional who acts in good faith in compliance with this regulation in the administration of treatment shall be immune from civil or criminal liability for his actions in connection with the treatment. The inmate may decline to participate in the evaluation or treatment plan by signing the Consent for Medroxyprogesterone Acetate Treatment indicating that he acknowledges his decision renders him ineligible for probation, parole, suspension of sentence or diminution of sentence if conditioned by the court. However, the inmate may still fall under the provisions of R.S. 15:828 or C.Cr.P.Art. 895(J).

13. Failure to continue or complete treatment shall be grounds for revocation of probation, parole, or suspension of sentence, or, if so conditioned by the Court, revocation of release on diminution of sentence as if on parole. Good time earned may be forfeited pursuant to R.S. 15:571.4. Should



an inmate in an institutional setting fail to continue or complete his sex offender treatment plan, an Incident Report shall be initiated and good time forfeited, if appropriate, pursuant to the provisions of the *Disciplinary Rules and Procedures for Adult Inmates*.

14. During the preclass verification process, it will be the responsibility of staff at ARDC/WRDC to identify those inmates whose sentence places them under the provisions of R.S. 15:538(C). It is preferable that state inmates in this category be transferred from local facilities to ARDC/WRDC. Staff at ARDC/WRDC shall be responsible for assuring the transport of these inmates to the departments custody. However, if this is not done, then the Office of Adult Services or the Basic Jail Guidelines Regional Team Leader shall assist the local facility with any questions or concerns regarding the provisions of R.S. 15:538(C). If an inmate assigned to an institution should receive a new sentence for an identified sex offense, it will be the responsibility of the warden to determine if they are subject to the conditions of R.S. 15:538(C).

15. The director of the Division of Probation and Parole and all wardens shall establish procedures to implement the policy provisions of this regulation to ensure strict adherence to the procedures outlined herein.

#### D. Sex Offender Treatment Program Pursuant to R.S. 15:828

1. Sex offenders for the purpose of this statute are defined as persons committed to the custody of the Department of Public Safety and Corrections, for any of the following crimes:

- a. R.S. 14:41 rape;
- b. R.S. 14:42 aggravated rape;
- c. R.S. 14: 42.1 forcible rape;
- d. R.S. 14:43 simple rape;
- e. R.S. 14:43.1 sexual battery;
- f. R.S. 14:43.2 aggravated sexual battery;
- g. R.S. 14:43.3 oral sexual battery;
- h. R.S. 14:43.4 aggravated oral sexual battery;
- i. R.S. 14:43.5 intentional exposure of aids virus;
- j. R.S. 14:76 bigamy;
- k. R.S. 14:77 abetting in bigamy;
- l. R.S. 14:78 incest;
- m. R.S. 14:78.1 aggravated incest;
- n. R.S. 14:80 carnal knowledge of a juvenile;
- o. R.S. 14:81 indecent behavior with juveniles;
- p. R.S. 14:81.1 pornography involving juveniles;
- q. R.S. 14:81.2 molestation of a juvenile;
- r. R.S. 14:89 crime against nature; or

s. R.S. 14:89.1 aggravated crime against nature.

2. Subject to the availability of resources and appropriate individual classification criteria, sex offenders as enumerated in §337.D.1.a - s and who are housed in a state correctional facility should be provided counseling and therapy by institutional mental health staff in a sex offender treatment program until successfully completed or until expiration of sentence, release on parole in accordance with and when permitted by R.S. 15:574.4, or other release in accordance with law, whichever comes first.

3. A sex offender treatment program means one which includes either or both group and individual therapy and may include arousal reconditioning. Group therapy should be conducted by two therapists, one male and one female. Subject to availability of staff, at least one of the therapists should be licensed as a psychologist, board-certified as a psychiatrist, or a clinical social worker. A therapist may also be an associate to a psychologist under the supervision of a licensed psychologist.

4. Reports, assessments, and clinical information, as available, including any testing and recommendations by mental health professionals, shall be made available to the Board of Parole.

5. If the inmate falls under the provisions of R.S. 15:538(C), then he should be treated in accordance with that statute and not R.S. 15:828.

E. Sex Offender Treatment Program Pursuant to C.Cr.P. Art. 895(J). In addition to other requirements of law, in cases where a defendant has been convicted of an offense involving criminal sexual activity, the court shall order as a condition of probation that the defendant successfully complete a sex offender treatment program. As part of the sex offender treatment program, the offender shall participate with a victim impact panel or program providing a forum for victims of criminal sexual activity and sex offenders to share experiences on the impact of the criminal sexual activity in their lives. The Director of Probation and Parole shall establish procedures to implement victim impact panels. All costs for the sex offender treatment program, pursuant to this Subsection shall be paid by the offender.

#### F. Consent for Medroxyprogesterone Acetate Treatment Form

##### Consent for Medroxyprogesterone Acetate Treatment

By my signature below, I hereby confirm that I have been informed of the uses and side effects involved with medroxyprogesterone acetate treatment or its chemical equivalent, hereinafter referred to as "the Treatment."

My initials before each section of this consent form indicate that each section has been read and discussed with me by the physician or his designee on this date.

\_\_\_ I understand that this medication is an accepted treatment for sex offender behavior, but the Treatment is not a "cure".

\_\_\_ I understand that the Treatment will be given in addition to counseling and I agree to participate in counseling during the course of the Treatment.

\_\_\_ I shall be responsible for the costs of the evaluation, the treatment plan, and the Treatment. If I am not indigent these services will be rendered by an outside mental health provider based upon a fee schedule established

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by the Department of Public Safety and Corrections. If I am on probation or under parole supervision, services will be rendered at the provider's place of business. If I am housed in an institution, services will be rendered by the provider at the state or local facility.

\_\_\_ If I am indigent and on probation or under parole supervision, I will be responsible for seeking services through the Department of Health and Hospitals, Office of Mental Health. If I am housed in a state institution, services will be provided by the Department of Public Safety and Corrections' mental health staff and I will be charged a set-up fee based upon the fee scale for non-indigent inmates and my account will reflect the cost of the service as a debt owed.

\_\_\_ I agree to cooperate with any psychological and medical evaluations, including but not limited to a complete physical examination and any laboratory, radiological, or neurological testing deemed necessary by the physician, with appropriate counseling by the physician or his designee prior to initiation of the Treatment to assess the possible effectiveness of the Treatment.

\_\_\_ I understand that the following are possible or potential side effects associated with the Treatment:

### Minor Side Effects

**B** Acne, dizziness, hair growth, headache, nausea, or vomiting. These side effects should disappear as your body adjusts to the medication.

**B** This medication can increase your sensitivity to sunlight. Avoid prolonged exposure to sunlight and sunlamps. Wear protective clothing and use an effective sunscreen.

**B** This medication may cause tenderness, swelling or bleeding of the gums. Brushing and flossing your teeth regularly may prevent this. Also, you should see your dentist regularly while you are taking this medication.

**B** If you feel dizzy or light-headed, sit or lie down for a while; get up slowly from a sitting or reclining position, and be careful of stairs.

### Major Side Effects

**B** Tell your doctor about any side effects that are persistent or particularly bothersome. IT IS ESPECIALLY IMPORTANT TO TELL YOUR DOCTOR if you experience breast tenderness; chest pain; depression; fainting; hair loss; itching; pain in the calves; rapid weight gain (three to five pounds within a week); rash; slurred speech; sudden, severe headache; swelling of the feet or ankles; or yellowing of the eyes or skin.

\_\_\_ I understand that the Treatment should not interact with other medications if it is used according to the physician's directions and monitoring.

\_\_\_ Promptly consulting your doctor is the best path to a quick and successful resolution of any medical problem or question you may have about the Treatment. I understand the following ~~AWarnings@~~ and agree to participate in my care by informing my physician of any problem, including but not limited to the following:

**B** Unusual or allergic reactions I have had to any medications, especially to medroxyprogesterone acetate (the Treatment), progesterin, or progesterone.

**B** Any history of cancer of the breast or genitals, clotting disorders, diabetes mellitus, depression, epilepsy, gallbladder disease, asthma, heart disease, kidney disease, liver disease, migraines, porphyria, or stroke.

**B** Dizziness or drowsiness (do not take part in any activities that require alertness, such as driving a car or operating potentially dangerous machinery).

\_\_\_ I understand that any physician or qualified mental health professional who acts in good faith in compliance with the provisions of La. R.S. 15:538(C), in the administration of the Treatment or the provision of counseling shall be immune from civil or criminal liability for his actions in connection with the Treatment or counseling as a means of altering sexual offender behavior.

\_\_\_ I understand that in some individuals the Treatment may not be effective at all for the problem of sexual offender behavior.

\_\_\_ If a relapse or recurrence of sexual offender behavior occurs while receiving the Treatment or after discontinuation of the Treatment, I agree to

in-patient treatment if deemed appropriate by a physician, whether or not incarcerated at the time of recurrence of the sexual offender behavior.

\_\_\_ I agree to a full psychological and medical evaluation with laboratory examination(s), radiological or neurological evaluation(s) as determined by the attending physician with appropriate counseling by the physician or his designee prior to release from custody or if I choose to discontinue the Treatment at any time.

\_\_\_ I understand that once the Treatment is initiated, it shall continue unless it is determined by the physician or mental health professional that it is no longer necessary. I also understand that discontinuation of the Treatment at any time in the future would stop the therapeutic effect of the Treatment until it is resumed.

\_\_\_ I understand that failure to continue or complete the Treatment shall be grounds for revocation of probation, parole, or suspension of sentence, or, if so conditioned by the Parole Board, revocation of release on diminution of sentence as if on parole. I also understand that if I am housed in an institution and fail to continue or complete the Treatment, good time earned may be forfeited pursuant to La. R.S. 15:571.4.

I, \_\_\_\_\_, on this date \_\_\_\_\_, have been informed of the uses and side effects involved with taking medroxyprogesterone acetate as a treatment for sex offenders. I agree to take the Treatment of my own free will and with full understanding of the possible risks versus potential benefit.

I, \_\_\_\_\_, on this date \_\_\_\_\_, have been informed of the uses and side effects involved with taking medroxyprogesterone acetate and refuse to participate in the Treatment. I understand that failure to participate will render me ineligible for probation, parole, suspension of sentence or diminution of sentence if conditioned by the court.

I, \_\_\_\_\_, on this date \_\_\_\_\_, give Dr. \_\_\_\_\_ permission to treat me with medroxyprogesterone acetate and agree to testing and counseling as stated above.

As the physician of record or his designee (medical or mental health), I attest to my counseling this patient of the use and side effects of medroxyprogesterone acetate or its chemical equivalent as treatment for sex offenders.

\_\_\_\_\_  
(Signature and date)

Patient Signature	_____	Date	_____
Physician Signature	_____	Date	_____
Witness (of Patient signature)	_____	Date	_____
Witness (of MD signature)	_____	Date	_____
Witness (of Patient signature)	_____	Date	_____
Witness (of MD signature)	_____	Date	_____

The consent form must be completed in its entirety with all three pages constituting a total consent form in Louisiana before the administration of medroxyprogesterone acetate treatment or its chemical equivalent for sexual offender behavior regardless of the sexual offender's current, prior, or future status of incarceration.

White copy consent	Chart
Yellow copy consent	Court
Blue copy consent	Physician

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 15:538(C).

**HISTORICAL NOTE:** Promulgated by the Department of Public Safety and Corrections, Corrections Services, LR 24:2308 (December 1998), amended LR 26:332 (February 2000).

### §339. Public Information Program and Media Access

A. Purpose. To state the Secretary's policy regarding methods that will be used within the Department to maintain informative relationships with the public, the media and other agencies.

B. Applicability. Undersecretary, Assistant Secretaries, all Wardens, the Director of Probation and Parole, the Director of Youth Services, and the Director of Prison Enterprises. Each Unit Head shall develop procedures to facilitate interaction with the public, the media, and other agencies and shall ensure that necessary information and instructions are furnished to affected employees and inmates.

C. Policy. It is the Secretary's policy to maintain positive, informative relationships with the public, the media and other agencies, consistent with the security and privacy interests of the Department, its staff, and inmates. All legitimate news media organizations shall be allowed reasonable access to the state's correctional facilities unless security considerations dictate otherwise.

D. Definitions. For the purpose of this regulation, the following definitions shall apply.

*Commercial Productions* Freelance photographers, writers and film makers who intend to sell their work product for profit to other companies.

*News Media* Properly credentialed and identifiable news coverage organizations. This includes representatives of general circulation newspapers, periodical magazines of national circulation sold through newsstands and/or mail subscriptions to the general public, local/national/international news services, and radio/television stations holding a Federal Communications Commission license.

*Unit Head* Refers to the head of an operational unit, such as Wardens, the Director of Probation and Parole, the Director of Youth Services, or the Director of Prison Enterprises.

#### E. Media Procedures

1. Unit procedures should address emergency and non-emergency responses to the news media and include, at a minimum, the following:

- a. the identification of areas in the facility that are accessible to news media representatives;
- b. the contact person for routine requests for information;
- c. identification of data and information protected by federal or state privacy laws, or federal and state freedom of information laws;
- d. special events coverage;
- e. news release policy;
- f. the designation of staff authorized to speak with the news media.

2. All media interested in making inquiries, conducting interviews, or seeking approval to visit a correctional facility shall first contact the Unit Head or his media relations designee. All requests must be approved by the Unit Head or his designee and requests must be made within a reasonable time frame, considering the scope of the story and the unit's ability to adequately prepare for the visit. The Unit Head will give notice to the Secretary and appropriate Assistant Secretary of any significant or potentially controversial event.

3. All media visitors will be provided with an escorting staff member for the duration of the visit.

4. Only those persons authorized by the Secretary or Unit Head shall release information to the media regarding official matters. Authorized spokespersons shall be knowledgeable of issues and Departmental policy and shall ensure the accuracy of information before releasing it.

5. In the event of an institutional emergency, all public and media access to the institution may be limited. The Warden or his media relations designee will periodically brief all media on the situation. A media briefing center may be established at a remote location.

6. All on-site media contacts with inmates are at the sole discretion of the Unit Head.

7. Written permission should be obtained from an inmate prior to interviewing, photographing, and/or audio or video recording of the inmate. With reference to juvenile offenders, written permission must be obtained from the juvenile's parent, guardian, or attorney, (except when the juvenile is not identifiable). Death Row inmates must also have their attorney's written approval prior to an interview, photograph, and/or audio or video recording. No remuneration will be provided to any inmate.

8. Interviews with inmates housed in maximum custody areas for behavioral problems and/or poor conduct records are discouraged.

9. Access to inmates should also be restricted or disallowed to prevent them from profiting from their crimes, either materially or through enhanced status as a result of media coverage.

#### F. Procedures for Commercial Productions

1. All commercial productions are required to make a written request to the Unit Head for access. Written requests will include, at a minimum, the following basic information, as applicable:

- a. name, job title and employer of person requesting visit, (if free-lance who they represent);
- b. topic of story, where it will be used, what purpose;
- c. name of individual(s) to be interviewed;
- d. date and time of arrival, anticipated duration;
- e. name of all persons accompanying requestor;

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f. if applicable, a hold harmless clause: "I recognize a visit to a correctional facility may present certain risks/hazards. I agree to assume all ordinary and/or usual risks to my personal safety inherent in a visit to an institution of this type."

2. All commercial productions are required to read, understand and sign a Location Agreement Form upon their arrival at the unit. The Location Agreement will specifically outline the scope of the work to be performed. The Unit Head (or designee) may require review of the material prior to distribution solely to insure that it comports with the Location Agreement Form.

### G Public Information Procedures

1. All staff shall be responsive to inquiries from the public and local, state and federal agencies by providing prompt, complete responses to all correspondence and other requests.

2. Inquiries from legislative and executive bodies may be referred to authorized staff as designated by the Secretary or Unit Head.

### H. Location Agreement Form

I, \_\_\_\_\_, am aware and agree that upon my entrance to the grounds of \_\_\_\_\_, I have been authorized by the Unit Head to interview, photograph, and/or audio or video record specific material as follows:

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I understand that inmates and visitors have the right not to be interviewed, photographed, and/or audio or video recorded. A release must be signed by inmates and visitors who agree to be interviewed, photographed, and/or audio or video recorded.

I also understand that I am not authorized to interview, photograph and/or audio or video record outside the above stated parameters for security reasons.

Name: \_\_\_\_\_  
Signature \_\_\_\_\_ Print \_\_\_\_\_

Affiliation \_\_\_\_\_

Witnessed on this \_\_\_\_\_ day of \_\_\_\_\_,  
19\_\_\_\_, at \_\_\_\_\_, LA by:

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Title

### I. Inmate Media Release Form

I, \_\_\_\_\_, an inmate confined at \_\_\_\_\_, hereby voluntarily agree to be

interviewed, photographed, and/or audio or video recorded by \_\_\_\_\_.  
I also voluntarily agree to have the interview, photograph, and/or audio or video recording broadcast or published by \_\_\_\_\_.

I do this of my own free will without coercion, threats of punishment or promise of reward from the Louisiana Department of Public Safety and Corrections and \_\_\_\_\_, their agents and employees. I hereby relieve and release the Louisiana Department of Public Safety and Corrections and \_\_\_\_\_, their agents and employees, of any responsibility and/or liability which may occur directly or indirectly as a result of my participation in, and the subsequent publication and/or broadcast of the interview, photograph, and/or audio or video recording.

\_\_\_\_\_  
Inmate Name & Number  
Witnessed on this \_\_\_\_\_ day of \_\_\_\_\_,  
19\_\_\_\_, at \_\_\_\_\_, LA by:

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Title

### J. Visitor Media Release Form

I, \_\_\_\_\_, a visitor at \_\_\_\_\_, hereby voluntarily agree to be interviewed, photographed, and/or audio or video recorded by members of \_\_\_\_\_. I also voluntarily agree to have the interview, photograph, and/or audio or video recording broadcast or published by \_\_\_\_\_.

I do this of my own free will without coercion, threats of punishment or promise of reward from the Louisiana Department of Public Safety and Corrections and \_\_\_\_\_, their agents and employees. I hereby relieve and release the Louisiana Department of Public Safety and Corrections and \_\_\_\_\_, their agents and employees, of any responsibility and/or liability which may occur directly or indirectly as a result of my participation in, and the subsequent publication and/or broadcast of the interview, photograph, and/or audio or video recording.

\_\_\_\_\_  
Visitor's Signature  
Witnessed on this \_\_\_\_\_ day of \_\_\_\_\_,  
19\_\_\_\_, at \_\_\_\_\_, LA by:

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Title

**AUTHORITY NOTE:** Promulgated in accordance with American Correctional Association (ACA) Standards 2-CO-1A-25 through 27-1 (Administration of Correctional Agencies) 34020 through 3-4022 (Adult Correctional Institutions).

**HISTORICAL NOTE:** Promulgated by the Department of Public Safety and Corrections, Corrections Services, LR 25:1260 (July 1999).

## Subchapter B. Disciplinary Rules for Adult Offenders

### §341. Preface

A. These disciplinary rules and procedures constitutes clear and proper notice of same for each adult inmate within the Department of Public Safety and Corrections.

B. These rules and regulations take effect February 15, 1993.

C. These rules and regulations supersede any and all conflicting disciplinary rules, procedures, posted policies, and appeal decisions affecting adult inmates that may have been previously issued.

D. Nothing in these rules and regulations should be construed to create any additional rights or privileges under either state or federal law for any inmate or groups of inmates over and above those already provided by law.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 15:823, *Wolff v. McDonnell*, 94 S.CL 2963 (1974) and *Ralph v. Dees*, C.A. 71-94, USDC (Md.La.).

**HISTORICAL NOTE:** Promulgated by the Department of Corrections, Office of Adult Services, LR 7:6 (January 1981), repromulgated by the Department of Public Safety and Corrections, Corrections Services, Office of Adult Services, LR 17:605 (June 1991), LR 19:648 (May 1993).

### §343. Foreword

A. The "Disciplinary Rules and Procedures for Adult Inmates" are established to help provide structure and organization for the prisons, and a framework within which the inmate population can expect the disciplinary system to function. They must be followed at all adult and contract facilities.

B. These rules, regulations, and procedures may only be changed by the secretary of the Department of Public Safety and Corrections.

C. In the event of a genuine emergency, such as a serious disturbance disrupting normal operations or a natural disaster, the secretary or his designee may suspend any and all disciplinary rules and procedures for the duration of the emergency. Full hearings must be held within a reasonable time after the end of the emergency for those inmates who were subject to serious sanctions (those that would have been appealable to the secretary under the provisions of these rules).

D. The pronouns "he" and "his" as they appear herein are used for convenience only and are not intended to discriminate against female employees or inmates.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 15:823, *Wolff v. McDonnell*, 94 S.Ct. 2963 (1974) and *Ralph v. Dees*, C.A. 71-94, USDC (Md.La.).

**HISTORICAL NOTE:** Promulgated by the Department of Corrections, Office of Adult Services, LR 7:6 (January 1981), repromulgated by the Department of Public Safety and Corrections, Corrections Services, Office of Adult Services, LR 17:605 (June 1991), LR 19:649 (May 1993).

### §345. Definitions

**Administrative Segregation** (formerly referred to as *Administrative Lockdown*) Ca temporary holding area, preferably a cell, where inmates are held whose continued presence in the general population poses a threat to life, property, self, staff, other inmates, the security or orderly running of the institution, or who are the subject of an investigation conducted by noninstitutional authorities. In addition, inmates who are pending transfer to another institution or pending assignment or reassignment within an institution may be held in Administrative Segregation. (Refer to '347. Disciplinary Procedures, Subsection B. Administrative Segregation Guidelines.)

**Appeal** Ca request by an inmate for review of a disciplinary decision. (Refer to '363. Appeals.)

**Confidential Informant** Cperson whose identity is not revealed to the accused inmate but who provides an employee(s) with information concerning misbehavior or planned misbehavior.

**Counsel and Counsel Substitute** Can attorney at law of the inmate's choice who must be retained by the inmate. *Counsel Substitutes* are persons not admitted to the practice of law, but inmates who aid and assist, without cost, an accused inmate in the preparation and presentation of his defense and/or appeal.

**Custody** Cthe type of housing and the level of supervision required for an inmate. Custody assignments will reflect public safety as the first priority, staff and inmate safety within the institution as the second priority, and then institutional or inmate need.

**Disciplinary Detention/Extended Lockdown** Cmaximum security area for confining inmates. (Refer to '347. Disciplinary Procedures, Subsection F. Disciplinary Detention/Extended Lockdown.)

**Disciplinary Detention/Isolation** Ca punitive holding area where inmates are temporarily confined in a restricted situation after being so sentenced by the disciplinary board. (Refer to '347. Disciplinary Procedures, Subsection G. Disciplinary Detention/Isolation.)

**Disciplinary Report** Ca report on the approved form filed by an employee who has reason to believe of his own knowledge that an inmate(s) has violated one or more disciplinary rules. Disciplinary reports may be heard by the disciplinary officer or the disciplinary board.

**Hearings** Ca fair and impartial review conducted by the disciplinary officer or the disciplinary board.

**Incident Report** Creport on the approved form filed by an employee describing an instance of planned or committed misbehavior (usually filed when the information is obtained through sources other than the reporting employee's firsthand knowledge-sources such as confidential informants, other inmates, or nonemployees), or to describe

planned or committed misbehavior that may not be defined under a specific rule description. In addition, a document that may be used to review the appropriateness of a custody or classification assignment. Incident reports are heard by the disciplinary board.

**Investigation Report** A report submitted for disposition to the disciplinary board detailing the facts uncovered in an investigation.

**Maximum Custody** Assignment of an inmate to a cell based upon the need to protect the inmate, other inmates, the public, staff, or the institution. Includes disciplinary detention/extended lockdown and working cellblocks. May include protective custody/extended lockdown. Movements inside the secure perimeter of a facility by maximum custody inmates are closely monitored by staff and may include the utilization of restraints in accordance with institutional policy. Movement outside of a secure perimeter is accomplished only under armed supervision or when appropriately restrained.

**Medium Custody** Generally, assignment of an inmate to a dormitory housing area. Movement outside of a secure perimeter is accomplished only under armed supervision or when appropriately restrained. Institutional procedure governs internal movement controls.

**Minimum Custody** Generally, assignment of an inmate to a dormitory housing area. Movement outside of a secure perimeter is usually authorized without armed supervision or restraint. Institutional procedure governs the level of staff supervision when outside the secure perimeter, as well as internal movement controls.

**Posted Policy** As used herein, applies to policy memorandums detailing what behavior is required or forbidden of inmates and generally reflects the individual needs of the facility such as, but not limited to, count procedure, off-limits areas, ID Card policy, cash money policy, and so forth. Posted policies must be distributed and posted in such a manner that inmates are placed on notice as to what behavior is required or forbidden, and the actions that may be taken should the policy be violated. (See Department Regulation Number 30-47.)

**Protective Custody/Extended Lockdown** A classification utilized when an inmate has a verifiable need for protection. (Refer to '347. Disciplinary Procedures, Subsection H. Protective Custody/Extended Lockdown.)

**Sanction** Disciplinary penalty.

**Security** The physical construction characteristics of the facility in terms of both perimeter security, building construction type, and internal movement controls.

**Segregation** Generic term used to encompass administrative segregation, protective custody, and disciplinary detention.

**Working Cellblock** A form of maximum custody distinguished by access to work and other programs consistent with security restrictions and institutional procedures.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 15:823, *Wolff v. McDonnell*, 94 S.Ct. 2963 (1974) and *Ralph v. Dees*, C.A. 71-94, USDC (Md.La.).

**HISTORICAL NOTE:** Promulgated by the Department of Corrections, Office of Adult Services, LR 7:6 (January 1981), repromulgated by the Department of Public Safety and Corrections, Corrections Services, Office of Adult Services, LR 17:605 (June 1991), LR 19:649 (May 1993).

### §347. Disciplinary Procedures

A. General Segregation Guidelines Mental Health. A mental health professional (as defined by the responsible health authority at the institution) must document a personal interview with any inmate who remains in administrative segregation, protective custody, or disciplinary detention for more than 30 consecutive days. A mental health assessment must be made at least every three months thereafter if confinement is continuous.

#### B. Administrative Segregation Guidelines

1. An inmate whose continued presence in the general population poses a threat to life, property, self, staff, other inmates, or to the security or orderly running of the institution, or who is the subject of an investigation conducted by noninstitutional authorities, may (with the approval of the highest ranking supervisor on duty in the unit where the incident occurred), be placed in administrative segregation until his appearance before the disciplinary board. The official, before the conclusion of his tour of duty, will review documentation for completeness, correctness, and investigate as needed to confirm the reasonableness of the allegation or circumstances prompting placement.

2. Inmates pending possible transfer to another facility, or pending assignment or re-assignment within an institution, may be held in administrative segregation. Inmates in administrative segregation pending such transfer will be entitled only to privileges allowed other inmates in administrative segregation.

3. Upon the request of an inmate or upon issuance of an "Incident Report" by appropriate institutional staff, an inmate may be placed in administrative segregation for his protection and/or the protection of others until the disciplinary officer/disciplinary board can review the circumstances and recommend appropriate action.

4. Time spent in administrative segregation must be credited against disciplinary detention/isolation or extra duty sentences even when the sentence is suspended. Credit will not be given for time spent in administrative segregation on a request for protection or while awaiting transfer to another area.

5. Inmates in administrative segregation shall be allowed to receive all correspondence and to originate correspondence. Inmates in administrative segregation will

be allowed: visits; clean clothing on a scheduled basis; toothbrush and toothpaste; sufficient heat; light; ventilation; toilet facilities; and the same meals as other inmates. The status of inmates in administrative segregation should be reviewed by an appropriate review board at least every seven days for the first two months and every 30 days thereafter.

C. Counsel Substitutes. Behavior of counsel substitutes and legal aid office workers must be above reproach. A job change is mandatory following conviction of a serious offense. Counsel substitutes are not required to file appeals but should inform the inmate who wants to appeal of the proper way to file. All counsel substitutes serve strictly at the discretion of the secretary. They may be removed from their positions if the secretary, or his designee, believes it appropriate. No inmate (counsel substitute or not) can sell or trade for value legal services of any sort. No inmate (counsel substitute or not) may perform services for an attorney on behalf of other inmates.

D. Disciplinary Board. A properly composed board will consist of two people—a duly authorized chairman, and a duly authorized member—each representing a different element (security, administration, or treatment). The chairman must be approved by the secretary. The member must be approved by the warden. Decisions must be unanimous. If the decision is not unanimous, the case is automatically deferred for referral to a different disciplinary board. Any chairman/member directly involved in the incident or who is biased for or against the accused cannot hear the case unless the accused waives recusal. Performance of a routine administrative duty does not necessarily constitute "direct involvement" or "bias".

E. Disciplinary Officer/Low Court Hearing. A disciplinary officer includes an employee from security, administration, or treatment appointed by the warden who conducts hearings of minor violations and who may impose only minor sanctions. Any disciplinary officer directly involved in the incident or who is biased for or against the accused cannot hear the case unless the accused waives recusal. Performance of a routine administrative duty does not necessarily constitute "direct involvement" or "bias". At these hearings, the accused inmate represents himself and is given full opportunity to speak in his own behalf. The presence of counsel substitutes, witnesses, or the accusing employee is not permitted. These hearings are not taped. Hearings shall be held within seven days of the incident, excluding weekends and holidays. The disciplinary officer may also hear inmates who have signed written requests for protection and may recommend appropriate action.

#### F. Disciplinary Detention/Extended Lockdown

1. An indeterminate period of lockdown characterized by routine 90-day classification reviews to determine eligibility/suitability for release from this status is known as disciplinary detention/extended lockdown. This type of segregation is used primarily after a disciplinary hearing for an inmate found guilty of violating one or more serious rules, or of being dangerous to himself or others, or of being a serious escape risk, or of posing a clear threat to the

security of the facility. A classification board hearing is sufficient for an inmate who is initially classified as maximum custody.

2. Inmates in disciplinary detention/extended lockdown should be reviewed by an appropriate review board for possible release to a less restricted status at least every 90 days.

#### G. Disciplinary Detention/Isolation

1. A determinate period of lockdown that is characterized by a limit of 10 consecutive days without a 24-hour break or no more than 20 days in a 30-day period is known as disciplinary detention/isolation. After 10 consecutive days in disciplinary detention/isolation, the inmate must be released for a period of time not less than 24 hours. No inmate may be confined in disciplinary detention/isolation except by action of the disciplinary board on the basis of a disciplinary or incident report.

2. Inmates in disciplinary detention/isolation shall be allowed to receive all correspondence and to originate correspondence. Inmates in disciplinary detention/isolation will be allowed: visits; clean clothing on a scheduled basis; toothbrush and toothpaste; sufficient heat; light; ventilation; toilet facilities; and the same meals as other inmates. Desserts may be excluded from meals served to disciplinary detention/isolation inmates.

#### H. Protective Custody/Extended Lockdown

1. Utilized for an inmate in need of protection. A disciplinary board hearing is not necessary when an inmate has signed a written request for protection and is transferred to protective custody/extended lockdown by the disciplinary officer/disciplinary board.

2. Inmates in protective custody/extended lockdown should be reviewed by an appropriate review board for possible release to a less restricted status at least every seven days for the first two months and every 30 days thereafter.

I. Working Cellblock. An indeterminate period of assignment to a maximum custody status characterized by access to work and other programs consistent with security restrictions and institutional procedures. Classification reviews are utilized to determine eligibility/suitability for release from this status. This type of assignment is used primarily after a disciplinary hearing for an inmate found guilty of violating one or more serious rules, or of being dangerous to himself or others, or of being a serious escape risk, or of being in need of protection, or of posing a clear threat to the security of the facility. A classification board hearing is sufficient for an inmate who is initially classified as maximum custody.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 15:823, *Wolff v. McDonnell*, 94 S.Ct. 2963 (1974) and *Ralph v. Dees*, C.A. 71-94, USDC (Md.La.).

**HISTORICAL NOTE:** Promulgated by the Department of Corrections, Office of Adult Services, LR 7:6 (January 1981), repromulgated by the Department of Public Safety and Corrections, Corrections Services, Office of Adult Services, LR 17:605 (June 1991), LR 19:650 (May 1993).

**§349. Hearings**

A. Disciplinary Board. The accused inmate must be given a written copy of the disciplinary report or incident report describing the charges against him at least 24 hours before the hearing begins (unless waived by the inmate in writing). Before the hearing can begin, accused inmates must acknowledge that they are familiar with their rights. These rights are:

1. the right to present evidence and witnesses in his behalf, provided the request is relevant, not repetitious, not unduly burdensome to the institution, or not unduly hazardous to staff or inmate safety. (The board has the option of stipulating expected testimony from witnesses. In such a case, the board should assign proper weight to such testimony as though the witness had actually appeared.);

2. the right to counsel substitute for all alleged violations. The right to outside retained counsel only when the alleged violation is one for which the inmate could also be tried in a criminal court, e.g., possession of illegal drugs, rape, aggravated battery, etc.;

3. no inmate can be compelled to incriminate himself;

4. the right to a written summary of the evidence and reasons for the judgment, including reasons for the sentence imposed, when the accused pled not guilty and was found guilty. (This will usually appear on the finalized report.);

5. the right to appeal consistent with the appeal procedure as outlined; and

6. the hearing must begin within 72 hours of placement in administrative segregation. Official holidays, weekends, genuine emergencies, or good faith efforts by the administration to provide a timely hearing are the only exceptions. When it is not possible to provide a full hearing within 72 hours of placement in administrative segregation, the accused must be brought before the board, informed of the reasons for the delay, and be remanded back to administrative segregation or released to his quarters after a date for a full hearing has been set.

B. Conduct of the Hearing. All rights and procedural requirements must be followed unless waived by the accused. Disciplinary board hearings must be tape recorded in their entirety, and the tapes preserved for 145 days. Hearings will generally be conducted as follows:

1. Inmates who do not choose to be present can sign a waiver which shall be read into the tape. Counsel substitute shall represent him. The same applies to disruptive inmates who refuse to cooperate. If the inmate refuses to sign a waiver, one shall be prepared and his refusal noted with two witnesses. In either case, the disciplinary chairman should also sign the waiver.

2. The accused enters his name and number into the record (the tape) as does his counsel or counsel substitute (if any) and confirms that he understands his rights. During the hearing, the accuser should only be present to testify. He may never be present during deliberations.

3. The chairman reads the disciplinary and/or incident report to the accused and asks for a plea. Available pleas are not guilty or guilty. Should the accused attempt to enter an unavailable plea or refuse to enter a plea, the chairman will enter a not guilty plea for him and proceed with the case.

4. Preliminary motions, if any, by the defense should now be made. Such motions must be raised at the first opportunity or be considered waived and may include:

- a. dismissal of the charge(s);

- b. continuance (Inmates are not entitled to a continuance to secure counsel unless they are charged with a violation which is also a crime under state law. Only one continuance need be granted unless new information is produced. Therefore, all requests to face accuser, call witness, etc. must be made at once. A motion due to lack of 24-hour notice must be made at this time.);

- c. an investigation;

- d. cross examination of the accusing employee (the accusing employee must be summoned only when the report is based solely on information from confidential informants);

- e. any other appropriate motions.

5. The board should rule on motions at the appropriate time and should give reasons for the ruling.

6. After entering his plea and motions, if any, the accused may present his defense. The board may ask questions of the accused, his witnesses, and/or his accused. No inmate can be compelled to incriminate himself;

7. During deliberations, everyone except the board, the bailiff, and any official observers must leave the room, and the board will decide the case on the basis of the evidence presented at the hearing. Official observers must not take part in the hearing or the deliberations. The bailiff cannot participate in deciding the case or the sentence, and must not participate in the hearing at all when he is the accusing employee, unless he is summoned to testify under cross-examination. The accused's record may be examined to discover a pattern of similar misbehavior or a pending suspended sentence. The record may be examined in order to determine an appropriate sentence; and

8. Following the deliberations, the chairman will announce the verdict. If the verdict is guilty, the chairman will then announce the sentence. The board has full authority to suspend any sentence they impose for a period of up to 90 days.

9. A written summary of the evidence presented and reasons for the judgment (includes reasons for the sentence imposed) will be prepared in all cases that the accused pled not guilty and was found guilty. The convicted inmate will automatically be given or sent a written summary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:823, *Wolff v. McDonnell*, 94 S.Ct. 2963 (1974) and *Ralph v. Dees*, C.A. 71-94, USDC (Md.La.).

HISTORICAL NOTE: Promulgated by the Department of Corrections, Office of Adult Services, LR 7:6 (January 1981),



repromulgated by the Department of Public Safety and Corrections, Corrections Services, Office of Adult Services, LR 17:605 (June 1991), LR 19:651 (May 1993).

### **§351. Correcting Disciplinary Reports**

A. A reviewing employee may change the rule number to fit the description prior to the hearing but should ensure that the accused gets a corrected copy of the report at least 24 hours before the hearing begins. Rule number(s) may be added if the offense is clearly described on the report. An incident may consist of several related events, however, each separate and distinct rule violation should be processed independently in the disciplinary system.

B. Before the hearing begins, the board may change the rule number to match the description of alleged misbehavior, if necessary, and also may change the rule number at any point prior to the deliberations, but should offer the accused a continuance to prepare the defense. It is the description of the conduct and not the rule number which determines the offense. The continuance may be waived and does not necessarily need to be for 24 hours.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 15:823, *Wolff v. McDonnell*, 94 S.Ct. 2963 (1974) and *Ralph v. Dees*, C.A. 71-94, USDC (Md.La.).

**HISTORICAL NOTE:** Promulgated by the Department of Corrections, Office of Adult Services, LR 7:6 (January 1981), repromulgated by the Department of Public Safety and Corrections, Corrections Services, Office of Adult Services, LR 17:605 (June 1991), LR 19:652 (May 1993).

### **§353. Hearings of Incident Reports**

When the report is based solely on information from a confidential informant, or from an inmate whose identity is known, it must be corroborated by witnesses (who may be other confidential informants, the record, or other evidence). The only time the accusing employee must be summoned for cross examination is when the report is based solely on information from confidential informants. In order for the accuser to attest to the reliability of the information received from a confidential informant, the informant must not have been unreliable in the past and must have legitimate knowledge of the present incident(s).

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 15:823, *Wolff v. McDonnell*, 94 S.Ct. 2963 (1974) and *Ralph v. Dees*, C.A. 71-94, USDC (Md.La.).

**HISTORICAL NOTE:** Promulgated by the Department of Corrections, Office of Adult Services, LR 7:6 (January 1981), repromulgated by the Department of Public Safety and Corrections, Corrections Services, Office of Adult Services, LR 17:605 (June 1991) LR 19:652 (May 1993).

### **§355. Sanctions**

A. Sentences must fit the offense and the offender. An inmate with a poor conduct record may receive a more severe sentence than an inmate with a good conduct record for the same offense. Even so, serious offenses call for serious penalties. An inmate who violates more than one rule or the same rule more than once during an incident may receive a permissible sanction for each violation. After a finding of guilt for a new violation, a previously suspended

sentence may be imposed as well as a new sentence. State and federal laws apply to inmates. In addition to being sanctioned by prison authorities, therefore, inmates may also be prosecuted in state or federal court for criminal conduct. Restitution imposed in accordance with Department Regulation Number 3041 is not a disciplinary penalty and may be assessed in addition to all other permissible penalties.

B. An inmate who has established a documented pattern of behavior indicating that he is dangerous to himself or others is a habitual offender. This includes an inmate who has been convicted of three major violations or a total of five violations in a six month period. Major violations are Schedule B offenses and incident reports concerning escape, violence, strong-arming, theft, smuggling of contraband, or threats to security. A habitual offender may receive Schedule B penalties following conviction of a Schedule A offense when he has established a documented pattern of hostile or disruptive behavior as defined above.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 15:823, *Wolff v. McDonnell*, 94 S.Ct. 2963 (1974) and *Ralph v. Dees*, C.A. 71-94, USDC (Md.La.).

**HISTORICAL NOTE:** Promulgated by the Department of Corrections, Office of Adult Services, LR 7:6 (January 1981), repromulgated by the Department of Public Safety and Corrections, Corrections Services, Office of Adult Services, LR 17:605 (June 1991), LR 19:652 (May 1993).

### **§357. Penalty Schedule. Disciplinary Report (Heard by Disciplinary Officer)**

A. After a finding of guilt, the disciplinary officer may impose one or two of the penalties below for each violation:

1. reprimand;
2. extra duty-up to four days for each violation;
3. loss of minor privilege for up to two weeks.

B. Extra duty-work to be performed in addition to the regular job assignment as specified by the proper authority. One day of extra duty is eight hours of work.

C. Minor privileges are:

1. radio and/or TV;
2. recreation and yard activities;
3. telephone (except for emergencies and legal);
4. movies;
5. loss of canteen privileges;
6. any other similar privilege (example: hobbycraft).

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 15:823, *Wolff v. McDonnell*, 94 S.Ct. 2963 (1974) and *Ralph v. Dees*, C.A. 71-94, USDC (Md.La.).

**HISTORICAL NOTE:** Promulgated by the Department of Corrections, Office of Adult Services, LR 7:6 (January 1981), repromulgated by the Department of Public Safety and Corrections, Corrections Services, Office of Adult Services, LR 17:605 (June 1991), LR 19:653 (May 1993).

**§359. Penalty Schedule. Disciplinary Report (Heard by Disciplinary Board)**

A. After a finding of guilt, the disciplinary board may impose one or two of the penalties below:

1. Schedule A
  - a. reprimand;
  - b. loss of minor privilege for up to two weeks;
  - c. extra duty **Up** to four days for each violation;
  - d. disciplinary detention/isolation **Up** to five days for each violation;
  - e. forfeiture of good time up to a maximum of 30 days.
  - f. quarters change;
  - g. job change;
  - h. loss of plasma privileges-up to four visits.
2. Schedule B
  - a. reprimand;
  - b. loss of minor privilege for up to four weeks, unless violation involved abuse of that privilege eight weeks;
  - c. loss of major privilege as designated below;
  - d. extra duty **Up** to eight days for each violation;
  - e. disciplinary detention/isolation **Up** to 10 days for each violation;
  - f. forfeiture of good time up to a maximum of 180 days.
  - g. quarters change;
  - h. job change;
  - i. loss of hobbycraft **Up** to six months;
  - j. Custody change from minimum to medium custody status (imposition of this penalty may include transfer to another institution. Any job change resulting from imposition of this penalty is not a separate penalty for purposes of this section, unless expressly indicated as a penalty).
  - k. Custody change from minimum or medium custody status to maximum custody status (working cell block or disciplinary detention/extended lockdown). (Imposition of this penalty may include transfer to another institution. Any job change resulting from imposition of this penalty is not a separate penalty for purposes of this section, unless expressly indicated as a penalty).
3. Extra duty and minor privileges are defined above. Major privileges are:
  - a. confinement to room or cell for up to one month;
  - b. loss of visiting, if the violation involves visiting, for up to three months;

c. loss of plasma privileges for up to 12 visits unless it falls into the special category designated by the secretary for self-mutilation;

d. any other similar privilege.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:571.4.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, LR 17:670 (July 1991), amended LR 25:1876 (October 1999).

**§361. Penalty Clarifications**

A. Good Time. The date of the offense controls the month for which an inmate fails to earn good time through disciplinary action (such "failure to earn" occurring for the month during which the offense was committed). An inmate can only lose as much good time as he can earn.

B. Penalty Schedule-incident report (heard by disciplinary board). After a finding of guilt, the disciplinary board may impose Schedule B sanctions as previously defined, may make a recommendation of transfer to another institution, or may place the inmate in protective custody/extended lockdown.

C. Restitution. Restitution may be obtained by a disciplinary board in accordance with Department Regulation Number 3041 from an inmate who damages or destroys property, causes or attempts to cause injury to himself, other inmates and/or staff, or who has a pattern of alleging injury or illness with the result that medical expenses are incurred and after a finding of guilt by a disciplinary board following a full (due process) hearing. Restitution is not a disciplinary penalty.

D. Suspended Sentences. The disciplinary officer or the disciplinary board may suspend any sentence they impose for a period of up to 90 days. The period of suspension begins on the date of sentence. When the time period has expired, the report itself remains a part of the record, although the sentence may no longer be imposed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:823, *Wolff v. McDonnell*, 94 S.Ct. 2963 (1974) and *Ralph v. Dees*, C.A. 71-94, USDC (Md.La.).

HISTORICAL NOTE: Promulgated by the Department of Corrections, Office of Adult Services, LR 7:6 (January 1981), repromulgated by the Department of Public Safety and Corrections, Corrections Services, Office of Adult Services, LR 17:605 (June 1991), LR 19:653 (May 1993).

**§363. Appeals****A. Appeals to the Disciplinary Board**

1. An inmate who wants to appeal a case heard by the disciplinary officer ("low court") must appeal to the disciplinary board ("high court"). As soon as the sentence is passed, the inmate who wants to appeal must clearly say so to the disciplinary officer who will then automatically suspend the sentence and schedule the case for the

disciplinary board. The appeal hearing before the disciplinary board is a full hearing the same as any other hearing conducted by the board. The disciplinary board cannot upgrade the sanction imposed by the disciplinary officer.

2. The appeal to the disciplinary board will be the final appeal in a case heard by the disciplinary officer. No other appeals are allowed. The appeal from the disciplinary officer to the disciplinary board will constitute the final administrative remedy regarding the disciplinary decision. Decisions rendered by the disciplinary officer and appealed to the disciplinary board may not be appealed to the warden nor to the secretary.

#### B. Appeals to the Warden

1. An inmate who wants to appeal a case heard by the disciplinary board ("high court") must, in all cases, appeal to the warden. The inmate may appeal himself or through counsel or counsel substitute. In either case, the appeal must be received within 15 days of the hearing. The appeal should be clearly written or typed on Form AF-1. If the form is not available, the appeal may be on plain paper but should contain the information called for on the form. The warden will render all appeal decisions within 30 days of the date of receipt of the appeal unless circumstances warrant an extension of that time period and the inmate is notified accordingly.

2. Lengthy appeals of disciplinary actions will not be accepted into the appeals process. It is necessary only that the inmate provide basic factual information regarding his case. Appeals that are too long will be returned to the inmate for summarization. The inmate will have five days from receipt to comply with the instructions and resubmit. It is important to remember that our ability to respond to legitimate problems in a timely fashion depends upon everyone's cooperation.

#### C. Appeals to the Secretary

1. An inmate who wants to appeal the decision of the warden to the secretary will indicate that he is "not satisfied" in the appropriate box on the warden's "Appeal Decision" (Form AF-2) and submit it to the ARP screening officer. The form must be submitted within five days of its receipt by the inmate. No supplement to the appeal will be considered. It is only necessary that the inmate check the box indicating "I am not satisfied", date, sign, and forward to the ARP screening officer. The ARP screening officer will provide the inmate with an acknowledgment of receipt and date forwarded to the secretary's office. The institution will provide a copy of the inmate's original appeal to be attached to the Form AF-2 for submission to the secretary.

2. The secretary will only consider appeals from decisions of the warden which resulted in an imposed or suspended sentence of one or more of the following penalties:

- a. disciplinary detention/isolation;
- b. loss of good time;

c. custody change from minimum to medium only if it involves transfer to another institution;

d. custody change to maximum custody.

3. In addition, all "restitution" assessments may be appealed to the secretary.

a. The secretary will render all appeal decisions within 85 days of the receipt of the appeal, unless circumstances warrant an extension of that time period and the inmate is notified accordingly. Absent unusual circumstances, the secretary will only consider review of the "sentence" of an inmate who pled guilty.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 15:823, *Wolff v. McDonnell*, 94 S.Ct. 2963 (1974) and *Ralph v. Dees*, C.A. 71-94, USDC (Md.La.).

**HISTORICAL NOTE:** Promulgated by the Department of Corrections, Office of Adult Services, LR 7:6 (January 1981), repromulgated by the Department of Public Safety and Corrections, Corrections Services, Office of Adult Services, LR 17:605 (June 1991), LR 19:354 (May 1993).

### §365. Disciplinary Rules

A. An inmate found guilty of violating one or more of the rules defined below will be punished according to the penalty schedule designated in the rule and the type of hearing provided.

B. Contraband (Schedule B). No inmate shall have under his immediate control any drugs (such as, but not limited to, heroin, LSD, amphetamines, barbiturates, marijuana), unauthorized medication, alcoholic beverage, yeast, tattoo machine, or tattoo paraphernalia, syringe, weapon (such as, but not limited to, firearm, knife, iron pipe), or any other item not permitted by institutional posted policy to be received or possessed, or any other item detrimental to the security of the facility, or smuggle or try to smuggle such items into or out of the facility. In some facilities, where posted, currency is contraband. No inmate shall sell or give away any above defined contraband item. Inmates clearly seen by employees to have contraband in their possession are in violation of this rule. The area of immediate control is an inmate's person, his locker(s), his cell, his room, his bed, his laundry bag, and his assigned job equipment (such as, but not limited to, his desk, his tool box, his locker at the job, his typewriter, or under his bed on the floor) unless the evidence clearly indicated that it belonged to another inmate. Contraband found in a cell shared by two or more inmates will be presumed to belong to all of them equally. Any inmate who is tested for and has a positive reading on a urinalysis test will be considered in violation of this rule. Any item not being used for the purpose for which it was intended will be considered contraband if it is being used in a manner that is clearly detrimental to the security of the facility.

C. Unauthorized Items (Schedule A). This distinguishes between contraband items that are detrimental to the security of the facility and those that are not authorized but clearly not detrimental to the safety and security of the facility.

D. Defiance (Schedule B). No inmate shall commit or threaten physically or verbally to commit bodily harm upon an employee. No inmate shall curse or insult an employee and/or his family. No inmate shall threaten an employee in any manner, including threatening with legal redress during a confrontation situation (this does not mean telling an employee of planned legal redress outside a confrontation situation and does not mean the actual composition or filing of a writ or suit.) No inmate shall obstruct or resist an employee who is performing his proper duties. No inmate shall try to intimidate an employee to make the employee do as the inmate wants him to do. Employees shall not be subject to abusive conversation, correspondence, phone calls, or gestures.

E. Disobedience (Schedule A). Inmates must obey the posted policies for the facility in which they are confined. They must obey signs or other notices of restricted activities in certain areas, safety rules, or other general instructions. The only valid excuse for disobedience or aggravated disobedience is when the immediate result of obedience would be bodily injury (this includes incapacity by virtue of a certified medical reason).

F. Disobedience, Aggravated (Schedule B). Inmates must obey direct verbal orders cooperatively and promptly; not debate, argue, or ignore them before obeying. When orders conflict, the last order received must be obeyed. Even orders the inmate believes improper must be obeyed; grievances must be pursued through proper channels. Sentences imposed by the disciplinary officer or the disciplinary board are to be carried out by the inmate. Violations of duty status will apply to this rule as will a violation of an order from the disciplinary board. The only valid excuse for disobedience or aggravated disobedience is when the immediate result of obedience would be bodily injury (this includes incapacity by virtue of a certified medical reason).

G. Disorderly Conduct (Schedule A). All boisterous behavior is forbidden. This includes, but is not limited to, horseplay, or to disorderly conduct in the mess hall, the visiting room, or during counts. Inmates shall not jump ahead or cut into lines at the store, movie, mess hall, or during group movements of inmates. Visitors shall be treated courteously and not be subjected to disorderly or intrusive conduct. Inmates shall not communicate verbally into or out of cellblocks or other housing areas.

H. Disrespect (Schedule A). Employees shall not be subject to disrespectful conversation, correspondence, or phone calls. Inmates shall address employees by proper title or by "Mr.", "Ms.", "Miss", or "Mrs." whichever is appropriate.

I. Escape (Schedule B). An escape or attempt to escape from the grounds of an institution or from the custody of an employee outside a facility, successful or not, or the failure to return from a furlough or pass, or being absent from a facility without leave, is a violation. R.S. 15:571.4 and Department Regulation Number 30-9A may provide for forfeiture of good time for aggravated escape or simple

escape. (R.S. 14:110A.(2) provides for additional conditions under which an inmate in work release status may be charged under this rule.)

J. Favoritism (Schedule B). No inmate shall bribe, influence, or coerce anyone to violate institutional policies, procedures, rules, or state or federal laws, or attempt to do so. No inmate shall give an employee anything of any value.

#### K. Fighting (Schedule B)

1. Hostile physical contact or attempted physical contact is not permitted. This includes fist fighting, shoving, wrestling, kicking, and other such behavior.

2. Self-Defense Clarification: Self-Defense is a complete defense and can be established to the board by demonstrating that his actions did not exceed those necessary to protect himself from injury.

#### L. Fighting, Aggravated (Schedule B)

1. Inmates shall not fight with each other using any object as a weapon (including any liquid or solid substances thrown or otherwise projected on or at another person). When two or more inmates attack another inmate without using weapons, the attackers are in violation of this rule, as are all participants in a group or "gang" fight. The use of teeth will also be sufficient to constitute a violation of this rule. No inmate shall intentionally inflict serious injury or death upon another inmate. Contact does not necessarily have to be made for this rule to be violated.

2. Self-Defense Clarification. Self-defense is a complete defense and can be established to the board by demonstrating that his actions did not exceed those necessary to protect himself from injury.

M. Gambling (Schedule B). No inmate shall operate or participate in any game of chance involving bets or wagers or goods or other valuables. Possession of one or more gambling tickets or stubs for football or any other sport is a violation. No inmate shall operate a book making scheme. Possession of gambling sheets with a list of names or codes, point spreads, how much owed, or how much wagered will be considered a violation.

N. Intoxication (Schedule B). No inmate shall be under the influence of any intoxicating substance at an institution or while in physical custody. Returning from a pass or furlough under the influence of an intoxicating substance is a violation.

#### O. Malingering (Schedule A)

1. Sick Call. A qualified medical staff person (as defined by the institution's responsible health authority) determines that an inmate has made repeated and frequent complaints at sick call having little or no merit.

2. Declaration of Emergency. A qualified medical staff person (as defined by the institution's responsible health authority) determines that an inmate has sought emergency medical treatment not during scheduled sick call for a minor ailment that was or could have been properly handled at sick call.

P. Malingering, Aggravated (Schedule B). A qualified medical staff person (as defined by the institution's responsible health authority) determines that an inmate has sought emergency medical treatment not during scheduled sick call when there was no ailment.

Q. Property Destruction (Schedule B). No inmate shall destroy the property of others or of the state. Flooding an area and the shaking of doors ("racking down") are not permitted. Standing or sitting on face bowls is a violation. Whether or not the inmate intended to destroy the property and/or the degree of negligence involved may be utilized in defense of the charge.

R. Radio/Tape Player/TV Abuse (Schedule A). Radios/tape players/TV's must be used in accordance with the posted policies of the facility. Radios/tape players/TV's must be played at a reasonable volume so as not to disturb others. Violations of posted policies regarding radios/tape players/TV's may be processed under this rule. In addition to any sanction that may be imposed by the disciplinary officer or the disciplinary board, the ranking employee on duty may confiscate the radios/tape players/TV's for a period of up to 30 days. For repeated violations, the radio/tape player/TV will be confiscated and disposed of in accordance with Department Regulation Number 30-22. The inmate will not be permitted to have a similar item sent to him for one year.

#### S. Self-Mutilation (Schedule B)

1. No inmate shall deliberately inflict or attempt to inflict injury upon himself, upon a consenting inmate, or consent to have an injury inflicted upon himself. Tattoos, piercing of any parts of the body, and alterations to teeth are specifically included in this rule. Not included are obvious suicide attempts.

2. Self-Mutilation (Special Sanction). Any inmate found guilty of an act of self-mutilation which results in a limited duty status in excess of five days will be subject to lose his/her plasma privilege and/or store privileges for one year's time.

T. Sex Offenses, Aggravated (Schedule B). Carnal copulation by two or more inmates with each other, or by one or more inmates with an implement or animal(s), is not permitted. Two or more inmates who have obviously been interrupted immediately before or after carnal copulation are in violation. The same applies to one or more inmates with an implement or animal(s). Use of the genital organs of one of the inmates, regardless of sex, is sufficient to constitute the offense. Overt sexual activity in the visiting room is not permitted. No inmate shall invade the privacy of an employee with sexual remarks or threats in conversation, or by correspondence or phone calls. No inmate shall deliberately expose the genital organs and/or masturbate in view of an employee or visitor. No inmate shall sexually assault a person by force or threat of force.

U. Theft (Schedule B). No inmate shall steal from anyone. *Forgery*, a form of theft, is the unauthorized altering or signing of a document(s) to secure material return and/or special favors or considerations. (The very act of the forgery

will constitute proof of the crime. It need not have been successful in its conclusion.) *Fraud*, a form of theft, is the deliberate misrepresentation of fact to secure material return and/or special favors or considerations. Any inmate who knowingly submits obviously false information to any employee within the Department of Public Safety and Corrections is guilty of this violation. Lying to the secretary or warden on appeal or in any other part of the administrative remedy procedure or in correspondence will also be a violation. Those who file administrative remedy requests that are frivolous or deliberately malicious may be disciplined under this rule. No inmate shall have stolen items under his immediate control. No inmate shall have institutional property under his immediate control unless he has specific permission; this includes institutional foodstuffs in excess of what a reasonable person might be expected to eat at one sitting. (Refer to Rule Number One for the definition of "Area of Immediate Control".)

V. Unauthorized Area (Schedule A). An inmate must be in the area in which he is authorized to be at that particular time and date or he is in an unauthorized area. No inmate shall go into any housing unit other than that to which he is assigned (this includes standing in the doorway) unless he has permission.

W. Unauthorized Food (Schedule A). No inmate shall have under his immediate control any food not sold by the inmate canteen or not otherwise permitted. No inmate shall have institutional foodstuffs under his immediate control outside the mess hall without specific permission. No inmate shall take extra portions of rationed food items at the serving counter. This rule, not Rule Number 21 applies to unauthorized possession of institutional foodstuffs not exceeding that which an inmate could be reasonably expected to eat at one sitting. (Refer to Rule Number One for the definition of "Area of Immediate Control".)

X. Unsanitary Practices (Schedule A). Inmates must not spit or drop litter or cigarette butts anywhere but into a proper receptacle. Inmates must not smoke in unauthorized areas. Inmates must maintain themselves, their clothing, and their shoes in as presentable a condition as possible under prevailing circumstances. Each inmate is responsible for keeping his bed and bed area reasonably clean, neat, and sanitary. Beds will be made according to the approved posted policy at the facility. Inmates must wear shoes/boots and cannot wear shirts that leave the armpits exposed or shorts into the mess hall, or chew gum in the mess hall.

Y. Work Offenses (Schedule A). Inmates must perform their assigned tasks with reasonable speed and efficiency. Though inmates have specific job assignments, it may be required that they do work other than what their job assignments require; this work shall also be done cooperatively and with reasonable speed and efficiency. Being present, but not answering at the proper time at work roll call is a violation. A school assignment is considered to be a work assignment for the purposes of this rule.

Z. Work Offenses, Aggravated (Schedule B). An inmate who flatly refuses to work or to go out to work, or who asks

to go to administrative segregation rather than work, is in violation of this rule, as is an inmate who disobeys repeated instructions as to how to perform his work assignment. Hiding out from work or leaving the work area without permission is a violation. Falling far short of fulfilling reasonable work quotas is not permitted. Being absent or late from work roll call without a valid excuse (such as no duty or callout) is a violation, as is not reporting for extra duty assignment. Being late to work (includes being late to school assignment) is a violation. A school assignment is considered to be a work assignment for the purposes of this rule.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 15:823, *Wolff v. McDonnell*, 94 S.Ct. 2963 (1974) and *Ralph v. Dees*, C.A. 71-94, USDC (Md.La.).

**HISTORICAL NOTE:** Promulgated by the Department of Corrections, Office of Adult Services, LR 7:6 (January 1981), repromulgated by the Department of Public Safety and Corrections, Corrections Services, Office of Adult Services, LR 17:605 (June 1991), LR 19:654 (May 1993).

### **§367. Notice**

R.S.15:866.2 provides that any property (including money) which you leave within the Department of Public Safety and Corrections for 90 days after your release and to which you make no claim shall be considered abandoned and will be disposed of in accordance with the law.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 15:823, *Wolff v. McDonnell*, 94 S.Ct. 2963 (1974) and *Ralph v. Dees*, C.A. 71-94, USDC (Md.La.).

**HISTORICAL NOTE:** Promulgated by the Department of Corrections, Office of Adult Services, LR 7:6 (January 1981), repromulgated by the Department of Public Safety and Corrections, Corrections Services, Office of Adult Services, LR 17:605 (June 1991), LR 19:657 (May 1993).

### **§369. Lost Property Claims**

A. The purpose of this Section is to establish a uniform procedure for handling "Lost Property Claims" filed by individuals in the custody of the Louisiana Department of Public Safety and Corrections, Corrections Services. All wardens and superintendents are responsible for implementing and advising inmates and affected employees of its contents.

B. When an inmate suffers a loss of personal property, he may submit a claim to the warden/superintendent. The claim should be submitted on the attached Form A. The claim must include the date the loss occurred, a full statement of the circumstances which resulted in the loss of property, a list of the items which are missing, the value of each lost item, and any proof of ownership or value of the property available to the inmate. All claims for lost personal property must be submitted to the warden/superintendent within 10 days of discovery of the loss.

Under no circumstances will an inmate be compensated for an unsubstantiated loss, or for a loss which results from the inmate's own acts or for any loss resulting from bartering, trading, selling to, or gambling with other inmates.

C. The warden/superintendent, or his designee, will assign an employee to investigate the claim. The

investigative officer will investigate the claim fully and will submit his investigation report and recommendation to the warden/superintendent, or his designee.

D. If a loss of an inmate's personal property occurs through the negligence of the institution and/or its employees, the inmate's claim may be processed in accordance with the following procedures:

#### **1. Monetary**

a. The warden/superintendent, or his designee, will recommend a reasonable value for the lost personal property as described on Form A. The maximum liability for certain classes of items is established at \$50 per Department Regulation Number 30-22;

b. Forms B and C (copies attached) will be completed and submitted to the inmate for his signature; and

c. The claim will then be submitted to the office of the secretary for review and processing.

#### **2. Nonmonetary**

a. The inmate is entitled only to state issue where state-issued items are available.

b. The warden/superintendent, or his designee, will review the claim and determine whether or not the institution is responsible.

c. Form B will be completed and submitted to the inmate for his signature; and

d. Form C will be completed and submitted to the inmate for his signature when state issue replacement has been offered.

E. If the warden/superintendent, or his designee, determines that the institution and/or its employees are not responsible for the inmate's loss of property, the claim will be denied, and Form B will be submitted to the inmate indicating the reason. If the inmate is not satisfied with the resolution at the unit level, he may indicate by checking the appropriate box on Form B and submitting to the ARP Screening Officer within five days of receipt.

F. It is only necessary that the inmate check the box indicating "I am not satisfied", date, sign, and forward to the ARP Screening Officer. The ARP Screening Officer will provide the inmate with an acknowledgment of receipt and date forwarded to the secretary's office. The institution will provide a copy of the inmate's original Lost Personal Property Claim (Form A) and Lost Personal Property Claim Response (Form B) and other relevant documentation for submission to the secretary.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 15823.

**HISTORICAL NOTE:** Promulgated by the Department of Public Safety and Corrections, Office of Adult Services, LR 19:657 (May 1993).

## Subchapter C. Disciplinary Rules for Juvenile Offenders

### §371. Preface

A. This book of disciplinary rules and procedures constitutes clear and proper notice of same for each juvenile offender within the Department of Public Safety and Corrections.

B. This book is effective September 30, 1993.

C. This book rescinds and supersedes the "Offender Rules" for Juvenile Correctional Institutions dated February 17, 1984, as amended, and appeal decisions rendered pursuant to those rules and procedures.

D. Nothing in this book should be construed to create any additional rights or privileges under either state or federal law for any juvenile offender or groups of offenders over and above those already provided by law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:823.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, Office of Youth Development, LR 20:58 (January 1994).

### §373. Forward

A. The "Disciplinary Rules and Procedures for Juvenile Offenders" are established to help provide structure and organization for the institution, and a framework within which the offender population can expect the disciplinary system to function. They must be followed at all juvenile facilities.

B. These rules, regulations, and procedures may only be changed by the secretary of the Department of Public Safety and Corrections.

C. In the event of a genuine emergency, such as a serious disturbance disrupting normal operations or a natural disaster, the secretary or his designee may suspend any and all disciplinary rules and procedures for the duration of the emergency. Full hearings must be held within a reasonable time after the end of the emergency for those offenders who were subject to serious sanctions (those that would have been appealable to the secretary under the provisions of these rules).

D. The pronouns "he" and "his" as they appear herein are used for convenience only and are not intended to discriminate against female employees or offenders.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:823.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, Office of Youth Development, LR 20:58 (January 1994).

### §375. Definitions

*Administrative Segregation/Confinement* (formerly referred to as "*Room Confinement*")Ca unit housing offenders whose continued presence in the general population poses a threat to life, property, self, staff, other

offenders, the security or orderly running of the institution, or who are the subject of an investigation conducted by noninstitutional authorities. In addition, offenders who are pending transfer to another institution or pending assignment or reassignment within an institution may be held in "Administrative Segregation/Confinement." (Refer to Section 377.A. Disciplinary Procedures-Administrative Segregation/Confinement Guidelines.)

*Appeal*Ca request by an offender for review of a disciplinary decision.

*Classification*Ca process for determining the needs and requirements of those for whom confinement has been ordered and for assigning them to housing units and programs according to their needs and existing resources.

*Confidential Informant*Cperson whose identity is not revealed to the accused offender but who provides an employee(s) with information concerning misbehavior or planned misbehavior.

*Disciplinary Committee*Ca properly composed committee will consist of two employees: a duly authorized chairman, and a duly authorized member; each representing a different element (security, administration, or treatment) and authorized to conduct hearings and impose disciplinary sanctions in compliance with the procedures set forth in this document. The chairman must be approved by the secretary and the member must be approved by the superintendent. Any disciplinary committee chairman/member directly involved in the incident or who is biased for or against the accused cannot hear the case unless the accused waives recusal. Performance of a routine administrative duty does not necessarily constitute "direct involvement" or "bias." If the decision of the disciplinary committee is not unanimous, the chairman will refer the case to another disciplinary committee. If the second decision is not unanimous, then a finding of not guilty is appropriate.

*Disciplinary Hearing Officer*Ca ranking security officer (lieutenant or above) or any supervisory level employee from administration or treatment appointed by the superintendent who conducts hearings of minor violations and who may impose only minor sanctions. The disciplinary hearing officer may also hear protective custody cases. Any disciplinary hearing officer directly involved in the incident or who is biased for or against the accused cannot hear the case unless the accused waives recusal. Performance of a routine administrative duty does not necessarily constitute "direct involvement" or "bias."

*Disciplinary Report*Ca report on the approved form completed and filed by an employee who has reason to believe of his own knowledge that an offender has violated one or more disciplinary rules. Disciplinary reports may be heard by the disciplinary hearing officer or the disciplinary committee. (See also *Incident Report*)

*Hearing*Ca fair and impartial review conducted by the disciplinary hearing officer or the disciplinary committee. A hearing must be scheduled as soon as possible but no later than seven days, excluding weekends and holidays, after the alleged violation.

**Incident Report** Ca report on the approved form filed by an employee describing an instance of planned or committed misbehavior (usually filed when the information is obtained through sources other than the reporting employee's first hand knowledge-sources such as confidential informants, other offenders, or nonemployees), or to describe planned or committed misbehavior that may not be defined under a specific rule description. In addition, a document that may be used to review the appropriateness of a custody or classification assignment. Incident reports are heard by the disciplinary committee. (See also *Disciplinary Report*)

**Informal Resolution** Ca procedure used when a minor rule has been violated and the employee believes it may properly be handled by reprimand and/or counseling.

**Investigative Officer** Can experienced employee assigned by the disciplinary committee or other appropriate staff to investigate a disciplinary report utilizing Form JR-8.

**Investigative Report** Ca report on the approved form submitted to the disciplinary committee/hearing officer by an investigative officer detailing the facts pertaining to an investigation.

**Major Offense** CSchedule B rule violation. (Refer to ' 383. Disciplinary Procedures-Schedule B Penalties.)

**Minor Offense** CSchedule A rule violation. (Refer to ' 381. Disciplinary Procedures-Schedule A Penalties.)

**Restitution** Crestitution may be obtained by a disciplinary committee in accordance with Department Regulation Number 30-41 from an offender who damages or destroys property, escapes or attempts to escape, causes or attempts to cause injury to himself, other offenders, staff and/or civilians (this includes lost wages), or who has a pattern of alleging injury or illness with the result that medical expenses are incurred and after a finding of guilt by the disciplinary committee following a full (due process) hearing. Restitution is not a disciplinary penalty.

**Sanction** Ca disciplinary penalty.

**Special Unit** Ca housing section that separates offenders who threaten the security or orderly management of the institution from the general population.

**Staff Representative** Ca staff member selected by the offender in accordance with institutional procedure for the purpose of representing the offender before the disciplinary committee chairman/hearing officer. (See Form JR-1 for duties of staff representative and exceptions.) The superintendent or his designee shall publish a list of names of staff representatives and shall make the list available to the disciplinary hearing officers, disciplinary committee chairmen, and offenders. All case managers should appear on the list, as well as selected administrative, educational, security and other personnel. The case manager should normally be chosen; however, any employee chosen must be on duty at the time of the hearing and must be able to perform the function without serious disruption to normal

job responsibilities. Employees who write the disciplinary report, who witness the reported incident, who investigate the incident, or conduct the disciplinary hearings may not act as staff representative for the particular case. If the staff representative encounters difficulties during the representation that he believes will prevent him from functioning properly (i.e., biases which would prevent him from being an offender advocate), he should request approval from the disciplinary committee chairman/hearing officer to be disqualified from the case.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 15:823.

**HISTORICAL NOTE:** Promulgated by the Department of Public Safety and Corrections, Corrections Services, Office of Youth Development, LR 20:58 (January 1994).

### §377. Disciplinary Procedures

A. Administrative Segregation/Confinement Guidelines (formerly referred to as "room confinement"). An offender whose continued presence in the general population poses a threat to life, property, self, staff, other offenders, or to the security or orderly running of the institution, or who is the subject of an investigation conducted by noninstitutional authorities, or who is pending review for or assignment to a special unit, or pending reassignment within an institution or to another institution, may (with the approval of the highest ranking supervisor on duty in the unit where the incident occurred), be placed in administrative segregation/confinement. The supervisor, before the conclusion of his tour of duty, will review relevant documentation for completeness and correctness, and investigate as needed to confirm the reasonableness of the allegation or circumstances prompting the placement.

1. Placement of an offender in administrative segregation/confinement pending a disciplinary hearing should not normally exceed 24 hours unless justified for security reasons. (See ' 377.A. Administrative Segregation/Confinement Guidelines above.)

2. Placement of an offender in administrative segregation/confinement pending case management review for possible placement in a special unit, protective care, or other reassignment review should not normally exceed 24 hours unless justified for security reasons. (See ' 377.A. Administrative Segregation/Confinement Guidelines above.) An incident report (Form JR-3) may be utilized to initiate placement under these circumstances. Review may be conducted by a disciplinary committee or other classification authority.

3. An offender who has been found guilty of a Schedule B offense may be placed in administrative segregation/confinement by the disciplinary committee for a period of time not to exceed five days as a sanction. (Refer to ' 379. Sanctions and ' 383. Penalty Schedule-Disciplinary Report (Heard by Disciplinary Committee)).

4. In the event an offender remains in administrative segregation/confinement for periods over 24 hours, the placement must be reviewed every 24 hours thereafter by the superintendent or his designee who may be a ranking



security employee or administrative or treatment supervisor (who was not involved with the incident).

5. Offenders whose serious behavior problems or need for protective care extends beyond the five day maximum envisioned for administrative segregation/confinement should be reviewed by the appropriate classification authority for possible placement in a special unit where they can be separated from general population. Offenders may be held in excess of five days in administrative segregation/confinement pending such review and/or assignment to a special unit, or pending possible transfer to another institution, or pending assignment or reassignment within an institution only when they are at a high risk for assaultive behavior, present a danger to themselves or others or the security of the institution, or are in danger of being victimized by others.

6. During administrative segregation/confinement visual contact is made with an offender at least every 15 minutes (or more, depending upon his emotional state) and documented in the unit log book.

7. Time spent in administrative segregation/confinement must be credited against any time spent in detention for disciplinary reasons even when the sentence is suspended. Credit will not be given for time spent in administrative segregation/confinement on a request for protection or while awaiting transfer to another area.

8. Offenders in administrative segregation/confinement shall be allowed to receive all correspondence and to originate correspondence. Offenders in administrative segregation/confinement will be allowed: visits; clean clothing on a scheduled basis; toothbrush and toothpaste; sufficient heat; light; ventilation; toilet facilities; and the same meals as other offenders.

#### B. Informal Resolution

1. Many petty or minor acts of misbehavior do not warrant the time and effort of a full disciplinary proceeding, yet do warrant some staff response. Good judgment of institutional staff, when dealing with some misbehavior, can alleviate further problems. Formal disciplinary proceedings need not be initiated for such misbehavior if the employee feels that the situation can be controlled by verbal reprimand or counseling.

2. If the offender is unwilling to accept an informal resolution, the reporting employee shall prepare and forward a disciplinary report for processing. A record shall be kept of informal resolutions and reviewed by the supervisor on a daily basis. An informal resolution shall be documented in the log in the area in which it occurred.

C. Minor Offenses. After writing a disciplinary report alleging commission of a minor offense, the following steps will be followed:

1. Notice. A copy of the disciplinary report, as a notification of the charges, shall be given to the offender at least 24 hours prior to a hearing with the disciplinary hearing officer. The offender's written disciplinary report must be

served before the end of the employee's shift and service documented on the disciplinary report. The employee will forward the disciplinary report to his supervisor for review and investigation as he deems appropriate to determine the relevancy and accuracy of the report. The supervisor will forward the disciplinary report to the disciplinary hearing officer. The disciplinary hearing officer is responsible for making certain the offender has the disciplinary report before conducting the hearing.

2. Hearing. The offender(s) shall be present during all phases of the hearing (except deliberations) unless he waives his right in writing, through obstructive behavior, or when another offender is giving a confidential testimony. Before the hearing can begin, the accused offender(s) must acknowledge that he/they understand their rights as outlined in Form JR-6. The offender shall be allowed a staff representative if requested. When it is apparent that the offender is not capable of effectively collecting and presenting evidence in his own behalf, a staff representative shall be appointed by the disciplinary hearing officer, even if one was not requested by the offender. The disciplinary hearing officer shall read the charge to the offender and ask that he plead guilty or not guilty. Unless the disciplinary hearing officer feels additional oral testimony is necessary, his decision may be based on the disciplinary report, the statements of the offender, and any other relevant written information presented at the hearing. He shall verbally advise the offender of his findings.

3. Record of Findings. At the conclusion of the hearing, the disciplinary hearing officer shall state his findings in writing, the evidence relied on, and the sanctions imposed, if any. A copy of this record shall be given to the offender within 24 hours. If an offender is found not guilty of a minor violation, all references to that offense shall be removed from his case record. (If the violation for which an offender was found not guilty is part of an incident where other violations were established, expungement is not necessary, but the "not guilty" violation shall be clearly marked.) A copy of all reports, documents, and notifications of the disciplinary process shall be maintained by the disciplinary hearing officer in a central location for six months with a copy placed in the offender's case record. The superintendent or his designee shall review disciplinary hearings and disposition to assure conformity with policy and procedures.

4. Appeals to Disciplinary Committee. An offender who wants to appeal a case heard by the disciplinary hearing officer must appeal to the disciplinary committee. As soon as the sentence is passed, the offender who wants to appeal must clearly say so to the disciplinary hearing officer who will then automatically suspend the sentence and schedule the case for a hearing by the disciplinary committee.

The disciplinary committee shall conduct a full hearing of the charge and report its findings in accordance with normal procedure. The disciplinary committee cannot upgrade the sanction imposed by the disciplinary hearing officer. The disciplinary committee may affirm, reverse or otherwise modify the decision. The appeal decision shall be

in writing. Decisions rendered by the disciplinary hearing officer and appealed to the disciplinary committee may not be appealed to the superintendent or to the secretary.

D. Major Offense. After the filing of a disciplinary report alleging commission of a major offense, the following steps will be followed.

1. Notice. The accused offender must be given a written copy of the disciplinary report describing the alleged violation against him within 24 hours of the infraction (unless waived by the offender in writing) and service documented on the report. In addition, the offender must be notified of the time and place of the hearing at least 24 hours in advance of the hearing. The disciplinary report is forwarded to the employee's supervisor for review and investigation as he deems appropriate to determine the relevancy and accuracy of the report. The supervisor will forward the disciplinary report to the disciplinary committee.

2. Hearing. Disciplinary committee hearings must be tape recorded in their entirety and the tapes preserved for a minimum of 145 days or as required for judicial review. The offender shall be present during all phases of the hearing (except deliberations) unless he waives his right in writing, through obstructive behavior, or when another juvenile is giving a confidential testimony. Before the hearing can begin, the accused offender(s) must acknowledge that he/they understand their rights (Form JR-6). The disciplinary committee chairman is responsible for ensuring that the rights of offenders are protected. The chairman may reschedule the hearing if necessary to carry out the offender's request to exercise his rights. The offender shall be allowed a staff representative if requested. When it is apparent that the offender is not capable of effectively collecting and presenting evidence in his own behalf, a staff representative shall be appointed by the disciplinary committee chairman even if one was not requested by the offender. The disciplinary committee chairman shall read the charge to the offender and ask that he plead guilty or not guilty. The offender has the right to present evidence and witnesses in his behalf and to request cross-examination of the accuser, provided such requests are relevant, not repetitious, not unduly burdensome to the institution, or not unduly hazardous to staff or offender safety. (The committee has the option of stipulating expected testimony from witnesses. In such a case, the committee should assign proper weight to such testimony as though the witness had actually appeared.) The accusing employee must be summoned when the report is based solely on information from confidential informants. The offender and/or his representative shall have the opportunity to challenge any documentary or physical evidence presented and may introduce evidence subject to approval of the disciplinary committee. If warranted, the disciplinary committee may order an investigation using Form JR-8.

3. Hearing of Incident Reports. When the report is based solely on information from a confidential informant, or from an offender whose identity is known, it must be corroborated by witnesses (who may be other confidential informants), the record, or other evidence. The only time the

accusing employee must be summoned for cross examination is when the report is based solely on information from confidential informants. In order for the accuser to attest to the reliability of the information received from a confidential informant, the informant must not have been unreliable in the past and must have legitimate knowledge of the present incident(s).

4. Decision. The offender shall be notified orally of the decision at the conclusion of the hearing. The decision rendered shall include:

- a. a finding of guilty or not guilty;
- b. the reason for the decision;
- c. a summary of the evidence relied upon; and
- d. penalty to be imposed.

The disciplinary committee shall render, and provide to the offender, a written decision including the above information.

5. Record of Findings. The disciplinary committee's decision shall become a part of the offender's case record. The disciplinary committee has full authority to suspend any sentence it imposes, including suspending the sentence pending appeal. If an offender is found not guilty of a violation, major or minor, all references to that offense shall be removed from his case record. (If the violation in which an offender was found not guilty is part of an incident where other violations were established, expungement is not necessary, but the "not guilty" violation shall be clearly marked.) A copy of all reports, documents, and notification of the disciplinary process shall be maintained by the committee chairman in a central location for six months with a copy placed in the offender's case record. The superintendent or his designee shall review disciplinary hearings and dispositions to assure conformity with policy and procedures.

6. Appeals to the Superintendent. An offender who wants to appeal a case heard by the disciplinary committee must, in all cases, appeal to the superintendent. The offender may appeal himself or through the staff representative. In either case, the appeal must be received within 15 days of the hearing. The appeal should be clearly written or typed on Form JR-4. If the form is not available, the appeal may be on plain paper but should contain the information called for on the form. The superintendent will decide all appeals within 30 days of the date of receipt of the appeal and the offender will be promptly notified on Form JR-5 of the results (unless circumstances warrant an extension of that time period and the offender is notified accordingly).

Lengthy appeals of disciplinary actions will not be accepted into the appeals process. It is necessary only that the offender provide basic factual information regarding his case. Appeals that are too long will be returned to the offender for summarization. The offender will have five days from receipt to comply with the instructions and resubmit. It is important to remember that our ability to respond to

legitimate problems in a timely fashion depends upon everyone's cooperation.

7. Appeals to the Secretary. An offender who wants to appeal the decision of the superintendent to the secretary will indicate that he is "not satisfied" in the appropriate box on the superintendent's "Appeal Decision" (Form JR-5) and submit it to the ARP screening officer. The form must be submitted within five days of its receipt by the offender. No supplement to the appeal will be considered. It is only necessary that the offender check the box indicating "I am not satisfied," date, sign, and forward to the ARP screening officer. The ARP screening officer will provide the offender with an acknowledgement of receipt and date forwarded to the secretary's office. The institution will provide a copy of the offender's original appeal to be attached to the Form JR-5 for submission to the secretary.

a. The secretary will only consider appeals from decisions of the superintendent which resulted in an imposed or suspended sentence of one or more of the following penalties:

i. administrative segregation/confinement for up to five days;

ii. demotion of one level or maximum demotion to the beginning level;

iii. recommendation of transfer to a more restrictive and secure environment (such as a special unit separated from general population);

iv. loss of furlough.

b. In addition, all "restitution" assessments may be appealed to the secretary.

c. The secretary will decide all appeals within 45 days of the date of receipt of the appeal and the offender will be promptly notified in writing of the results (unless circumstances warrant an extension of that time period and the offender is notified accordingly). Absent unusual circumstances, the secretary will only consider review of the "sentence" of an inmate who pled guilty.

#### E. Correcting Disciplinary Reports

1. A reviewing employee may change the rule number to fit the description prior to the hearing but should ensure that the accused gets a corrected copy of the report at least 24 hours before the hearing begins. Rule number(s) may be added if the offense is clearly described on the report. An incident may consist of several related events, however, each separate and distinct rule violation should be processed independently in the disciplinary system.

2. Before the hearing begins, the disciplinary hearing officer/committee may change the rule number to match the description of alleged misbehavior, if necessary, and also change the rule number at any point prior to the deliberations, but should offer the accused a continuance to prepare the defense. It is the description of the conduct and not the rule number which determines the offense. The

continuance may be waived and does not necessarily need to be for 24 hours.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 15:823.

**HISTORICAL NOTE:** Promulgated by the Department of Public Safety and Corrections, Corrections Services, Office of Youth Development, LR 20:58 (January 1994).

### §379. Sanctions

A. Sentences must fit the offense and the offender. An offender with a poor conduct record may receive a more severe sentence than an offender with a good conduct record for the same offense. Even so, serious offenses call for serious penalties. An offender who violates more than one rule or the same rule more than once during an incident may receive a permissible sanction for each violation. After a finding of guilt for a new violation, a previously suspended sentence may be imposed as well as a new sentence. State and federal criminal laws apply to offenders. In addition to being sanctioned by institutional authorities, offenders may also be prosecuted in state or federal court for criminal conduct. Restitution imposed in accordance with Department Regulation Number 30-41 is not a disciplinary penalty and may be assessed in addition to all other permissible penalties.

B. An offender who has established a documented pattern of behavior indicating that he is dangerous to himself or others is a habitual offender. This includes an offender who has been convicted of three major violations or a total of five violations in a six-month period. Major violations are Schedule B offenses and incident reports concerning escape, violence, strong-arming, theft, smuggling of contraband, or threats to security. A habitual offender may receive Schedule B penalties following conviction of a Schedule A offense when he has established a documented pattern of hostile or disruptive behavior as defined above.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 15:823.

**HISTORICAL NOTE:** Promulgated by the Department of Public Safety and Corrections, Corrections Services, Office of Youth Development, LR 20:58 (January 1994).

### §381. Penalty ScheduleBDisciplinary Report (Heard by Disciplinary Officer)

After a finding of guilt, the disciplinary officer may impose one or two of the penalties below for each violation:

#### 1. Schedule A

a. reprimand;

b. loss of minor privilege for up to two weeks;

c. additional work assignment that can reasonably be completed in a period of time not to exceed three days or a work assignment change. The additional work assignment shall not interfere with school or other work assignments or scheduled individual and/or group counseling sessions.

#### 2. Minor privileges are:

a. radio/tv/stereo/movies;

- b. recreational activities in excess of one hour in each 24-hour period so designated;
- c. canteen privileges;
- d. telephone privileges (except for emergencies, calls to attorney, one call per month to parent/guardian).

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 15:823.

**HISTORICAL NOTE:** Promulgated by the Department of Public Safety and Corrections, Corrections Services, Office of Youth Development, LR 20:58 (January 1994).

### **§383. Penalty ScheduleBDisciplinary Report (Heard by Disciplinary Committee)**

After a finding of guilt, the disciplinary committee may impose one or two of the penalties below:

1. Schedule B
  - a. written reprimand;
  - b. loss of minor privilege for up to four weeks;
  - c. administrative segregation/confinement for up to five days;
  - d. demotion of one level or maximum demotion to the beginning level;
  - e. recommendation of transfer to a more restrictive and secure environment (such as a special unit separated from general population);
  - f. additional work assignments that can reasonably be completed in a period of time from three days to three weeks. The additional work assignment must not interfere with school or other scheduled work assignments or scheduled individual and/or group counseling sessions;
  - g. loss of major privilege as designated below.
2. Loss of major privileges includes:
  - a. loss of furlough not to exceed three months;
  - b. loss of off-campus trips unrelated to medical and mental health services not to exceed three months;
  - c. restriction of visiting privileges, if the violation involves visiting, not to exceed three months;
  - d. loss of on-campus activities such as movies, parties, special recreational and social events, Girl Scouts and Boy's Club activities, etc.

**NOTE:** Any sentence or part of a sentence for Schedule B offenses may be suspended for a period not to exceed 30 days. An offender who remains report-free for the duration of the sentence shall not have the sentence imposed.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 15:823.

**HISTORICAL NOTE:** Promulgated by the Department of Public Safety and Corrections, Corrections Services, Office of Youth Development, LR 20:58 (January 1994).

### **§385. Disciplinary Rules**

An offender found guilty of violating one or more of the rules defined below will be disciplined according to the penalty schedule designated in the rule. Offenders must also obey the approved posted policies of the institution in which they are confined.

1. Contraband (Schedule B). No offender shall have under his immediate control any drugs (such as, but not limited to, heroin, LSD, amphetamines, barbiturates, marijuana), unauthorized medication, alcoholic beverage, yeast, tattoo machine, or tattoo paraphernalia, syringe, weapon (such as, but not limited to, firearm, knife, iron pipe), or any other item not permitted by institutional posted policy to be received or possessed, or any other item detrimental to the security of the institution; or smuggle or try to smuggle such items into or out of the institution. Currency is contraband in all facilities. No offender shall sell or give away any above defined contraband items. Offenders clearly seen by employees to have contraband in their possession are in violation of this rule. The area of immediate control is an offender's person, his locker(s), his cell, his room, his bed, his laundry bag, and his assigned job/school equipment (such as, but not limited to, his desk), or the area under his bed on the floor unless the evidence clearly indicated that it belonged to another offender. Any offender who is tested for and has a positive reading on a urinalysis test will be considered in violation of this rule. Any item not being used for the purpose for which it was intended will be considered contraband if it is being used in a manner that is clearly detrimental to the security of the institution.

Unauthorized Items (Schedule A). This distinguishes between contraband items that are detrimental to the security of the institution and those that are not authorized but clearly not detrimental to the safety and security of the institution.

2. Defiance (Schedule B). No offender shall commit or threaten physically or verbally to commit bodily harm upon an employee. No offender shall curse or insult an employee and/or his family. No offender shall threaten an employee in any manner, including threatening with legal redress during a confrontation situation (this does not mean telling an employee of planned legal redress outside a confrontation situation and does not mean the actual composition or filing of a writ or suit). No offender shall obstruct or resist an employee who is performing his proper duties. No offender shall try to intimidate an employee to make the employee do as the offender wants him to do. Employees shall not be subjected to abusive conversation, correspondence, phone calls, or gestures.

3. Disobedience (Schedule A). Offenders must obey all posted policies of the institution. They must obey signs or other notices of restricted activities in certain areas, safety rules, or other general instructions. The only valid excuse for disobedience is when the immediate result of obedience would be bodily injury (this includes incapacity by virtue of a certified medical reason).

4. Disobedience, Aggravated (Schedule B). Offenders must obey direct verbal orders cooperatively and promptly; not debate, argue, or ignore them before obeying. When orders conflict, the last order received must be obeyed. Even orders the offender believes improper must be obeyed; grievances must be pursued through proper channels. Sentences imposed by the disciplinary officer or the disciplinary committee are to be carried out by the offender. Violations of duty status will apply to this rule as will a violation of an order from the disciplinary committee. The only valid excuse for disobedience or aggravated disobedience is when the immediate result of obedience would be bodily injury (this includes incapacity by virtue of a certified medical reason).

5. Disorderly Conduct (Schedule A). All boisterous behavior is forbidden. This includes, but is not limited to, horseplay, or to disorderly conduct in the mess hall, the visiting room, or during counts. Offenders shall not jump ahead or cut into lines at the store, movie, mess hall, or during group movements of offenders. Visitors shall be treated courteously and not be subjected to disorderly or intrusive conduct. Offenders shall not communicate verbally into or out of cellblocks or other housing areas.

6. Disrespect (Schedule A). Employees shall not be subject to disrespectful conversation, correspondence, or phone calls. Offenders shall address employees by proper title or by "Mr.", "Ms.", "Miss", or "Mrs.", whichever is appropriate.

7. Escape (Schedule B). An escape or an attempt to escape from the grounds of an institution or from the custody of an employee outside an institution, whether successful or not, or the failure to return from a furlough or pass, or being absent from an institution without leave, is a violation. R.S. 15:875(B) and Department Regulation Number 30-41 authorize imposition of restitution for costs related to escape or attempted escape from "any institution of the department." (An intent to escape must be established, otherwise '385.A.20. Disciplinary Rules, Unauthorized Area (Schedule A) applies.)

8. Favoritism (Schedule B). No offender shall bribe, influence, or coerce anyone to violate institutional policies, procedures, rules, or state or federal laws, or attempt to do so. No offender shall give an employee anything of any value.

9. Fighting (Schedule B). Hostile physical contact or attempted physical contact is not permitted. This includes fist fighting, shoving, wrestling, kicking, and other such behavior.

Self-Defense Clarification. Self-defense is a complete defense and can be established to the disciplinary committee by demonstrating that his actions did not exceed those necessary to protect himself from injury.

10. Fighting, Aggravated (Schedule B). Offenders shall not fight with each other using any object as a weapon (including any liquid or solid substances thrown or otherwise projected on or at another person). When two or

more offenders attack another offender without using weapons, the attackers are in violation of this rule, as are all participants in a group or "gang" fight. The use of teeth will also be sufficient to constitute a violation of this rule. No offender shall intentionally inflict serious injury or death upon another offender. Contact does not necessarily have to be made for this rule to be violated.

Self-Defense Clarification. Self-defense is a complete defense and can be established to the disciplinary committee by demonstrating that his actions did not exceed those necessary to protect himself from injury.

11. Gambling (Schedule B). No offender shall operate or participate in any game of chance involving bets or wages or goods or other valuables. Possession of one or more gambling tickets or stubs for football or any other sport is a violation. No offenders shall operate a book making scheme. Possession of gambling sheets with a list of names or codes, point spreads, how much owed, or how much wagered will be considered a violation.

12. Intoxication (Schedule B). No offender shall be under the influence of any intoxicating substance at an institution or while in physical custody. Returning from a pass, furlough, or off campus activities under the influence of an intoxicating substance is a violation.

#### 13. Malingering (Schedule A)

a. Sick Call. A qualified medical staff person (as defined by the institution's responsible health authority) determines that an offender has made repeated and frequent complaints at sick call having little or no merit.

b. Declaration of Emergency. A qualified medical staff person (as defined by the institution's responsible health authority) determines that an offender has sought emergency medical treatment not during scheduled sick call for a minor ailment that was or could have been properly handled at sick call.

14. Malingering, Aggravated (Schedule B). A qualified medical staff person (as defined by the institution's responsible health authority) determines that an offender has sought emergency medical treatment not during scheduled sick call when there was no ailment, or a doctor determines that it was an obviously minor ailment which could have been, or was, properly handled at sick call.

15. Property Destruction (Schedule B). No offender shall destroy the property of others or of the state. Flooding an area and the shaking of cell or room doors are not permitted. Standing or sitting on face bowls is a violation. Whether or not the offender intended to destroy the property and/or the degree of negligence involved may be utilized in defense of the charge.

16. Radio/Tape Player/Television Abuse (Schedule A). Radios/tape players/televisions must be used in accordance with the posted policies of the institution. Radios/tape players/televisions must be played at a reasonable volume so as not to disturb others. Violations of posted policies regarding radios/tape players/televisions may be processed

under this rule. In addition to any sanction that may be imposed by the disciplinary hearing officer or the disciplinary committee, the ranking employee on duty may confiscate the radios/tape players/televisions for a period of up to 30 days. For repeated violations, the radios/tape players/televisions will be confiscated and disposed of in accordance with institutional procedure. The offender will not be permitted to have a similar item sent to him for one year.

17. Self-Mutilation (Schedule B). No offender shall deliberately inflict or attempt to inflict injury upon himself, upon a consenting offender, or consent to have an injury inflicted upon himself. Tattoos, piercing of any parts of the body, and alterations to teeth are specifically included in this rule. Not included are obvious suicide attempts.

Self-Mutilation (Special Sanction). Any offender found guilty of an act of self-mutilation which results in a limited school or job assignment in excess of five days will be subject to the loss of one or two major privileges for up to three months.

18. Sex Offenses, Aggravated (Schedule B). Carnal copulation by two or more offenders with each other, or by one or more offenders with an implement or animal(s), is not permitted. Two or more offenders who have obviously been interrupted immediately before or after carnal copulation are in violation. The same applies to one or more offenders with an implement or animal(s). Use of the genital organs of one of the offenders, regardless of sex, is sufficient to constitute the offense. Overt sexual activity in the visiting room is not permitted. No offender shall invade the privacy of an employee with sexual remarks, or threats in conversation, or by correspondence or phone calls. No offender shall deliberately expose the genital organs and/or masturbate in view of an employee or visitor. No offender shall sexually assault a person by force or threat of force.

19. Theft (Schedule B). No offender shall steal from anyone. Forgery, a form of theft is the unauthorized altering or signing of a document(s) to secure material return and/or special favors or considerations. (The very act of the forgery will constitute proof of the crime. It need not have been successful in its conclusion.) Fraud, a form of theft, is the deliberate misrepresentation of fact to secure material return and/or special favors or considerations. Any offender who knowingly submits obviously false information to any employee within the Department of Public Safety and Corrections is guilty of this violation. Lying to the secretary or superintendent on appeal or in any part of the administrative remedy procedure or in correspondence will also be a violation. Those who file administrative remedy requests that are frivolous or deliberately malicious may be disciplined under this rule. No offender shall have stolen items under his immediate control. No offender shall have institutional property under his immediate control unless he has specific permission; this includes institutional foodstuffs in excess of what a reasonable person might be expected to eat at one sitting. (Refer to '385.A.1. *Disciplinary Rules*, for the definition of "area of immediate control.")

20. Unauthorized Area (Schedule A). An offender must be in the area in which he is authorized to be at that particular time and date or he is in an unauthorized area. No offender shall go into any housing unit other than that to which he is assigned; this includes standing in the doorway; unless he has permission.

21. Unauthorized Food (Schedule A). No offender shall have under his immediate control any food not sold by the offender canteen or not otherwise permitted. No offender shall have institutional foodstuffs under his immediate control outside the kitchen without specific permission. No offender shall take extra portions of rationed food items at the serving counter. This rule, not '385.A.19. *Disciplinary Rules*, applies to unauthorized possession of institutional foodstuffs not exceeding that which an inmate could be reasonably expected to eat at one sitting. (Refer to '385.A.1. *Disciplinary Rules*, for the definition of "area of immediate control.")

22. Unsanitary Practices (Schedule A). Offenders must not spit or drop litter anywhere but into a proper receptacle. Offenders must maintain themselves, their clothing, and their shoes in as presentable a condition as possible under prevailing circumstances. Each offender is responsible for keeping his bed and bed area reasonably clean, neat, and sanitary. Beds will be made according to the approved posted policy at the institution. Offenders must wear shoes/boots and cannot wear shirts that leave the armpits exposed or shorts into the kitchen, or chew gum in the kitchen.

23. Work Offenses (Schedule A). Offenders must perform their assigned tasks with reasonable speed and efficiency. Though offenders have specific job assignments, it may be required that they do work other than what their job assignments require; this work shall also be done cooperatively and with reasonable speed and efficiency. Being present, but not answering at the proper time at work roll call is a violation. A school assignment is considered to be a work assignment for the purposes of this rule.

24. Work Offenses, Aggravated (Schedule B). An offender who flatly refuses to work or to go out to work, or who asks to go to administrative segregation/confinement rather than work, is in violation of this rule, as is an offender who disobeys repeated instructions as to how to perform his work assignment. Hiding out from work or leaving the work area without permission is a violation. Falling far short of fulfilling reasonable work quotas is not permitted. Being absent or late from work roll call without a valid excuse is a violation, as is not reporting for additional work assignment. Being late to work (includes being late to school assignment) is a violation. A school assignment is considered to be a work assignment for the purposes of this Rule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:823.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, Office of Youth Development, LR 20:58 (January 1994).

**§387. Notice**

R.S. 15:866.2 provides that any property (including money) which is left within the Department of Public Safety and Corrections for 90 days after release and to which no claim is made shall be considered abandoned and will be disposed of in accordance with the law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:823.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, Office of Youth Development, LR 20:58 (January 1994).

**§389. Lost Property Claims**

The purpose of this Section is to establish a uniform procedure for handling "Lost Property Claims" filed by individuals in the custody of the Department of Public Safety and Corrections, Corrections Services. All wardens and superintendents are responsible for implementing and advising offenders and affected employees of its contents.

1. When an offender suffers a loss of personal property, he may submit a claim to the warden/superintendent. The claim should be submitted on the attached Form A. The claim must include the date the loss occurred, a full statement of the circumstances which resulted in the loss of property, a list of the items which are missing, the value of each lost item, and any proof of ownership or value of the property available to the offender. All claims for lost personal property must be submitted to the warden/superintendent within 10 days of discovery of the loss.

Under no circumstances will an offender be compensated for an unsubstantiated loss, or for a loss which results from the offender's own acts or for any loss resulting from bartering, trading, selling to, or gambling with other offenders.

2. The warden/superintendent, or his designee, will assign an employee to investigate the claim. The investigative officer will investigate the claim fully and will submit his investigation report and recommendation to the warden/superintendent, or his designee.

3. If a loss of offender's personal property occurs through the negligence of the institution and/or its employees, the offenders claim may be processed in accordance with the following procedures.

a. Monetary

i. The warden/superintendent, or his designee, will recommend a reasonable value for the lost personal property as described on Form A. The maximum liability for certain classes of items is established at \$50 per Department Regulation Number 30-22.

ii. Forms B and C (copies attached) will be completed and submitted to the offender for his signature; and

iii. The claim will then be submitted to the Office of the Secretary for review and processing.

b. Nonmonetary

i. The offender is entitled only to state issue where state-issued items are available.

ii. The warden/superintendent, or his designee, will review the claim and determine whether or not the institution is responsible.

iii. Form B will be completed and submitted to the offender for his signature; and

iv. Form C will be completed and submitted to the offender for his signature when state issue replacement has been offered.

4. If the warden/superintendent, or his designee, determines that the institution and/or its employees are not responsible for the offender's loss of property, the claim will be denied, and Form B will be submitted to the offender indicating the reason. If the offender is not satisfied with the resolution at the unit level, he may indicate by checking the appropriate box on Form B and submitting it to the ARP screening officer within five days of receipt.

5. It is only necessary that the offender check the box indicating "I am not satisfied," date, sign, and forward to the ARP screening officer. The ARP screening officer will provide the offender with an acknowledgment of receipt and date forwarded to the secretary's office. The institution will provide a copy of the offender's original Lost Personal Property Claim (Form A) and Lost Personal Property Claim Response (Form B) and other relevant documentation for submission to the secretary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:823.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, Office of Youth Development, LR 20:58 (January 1994).





## **Appendix**

JR-1

### **DUTIES OF STAFF REPRESENTATIVE**

As a staff person representing an offender appearing before the Disciplinary Committee, your duties are:

1. To assist the offender in presenting pertinent information in preparing his defense. This will require, in every case, consultation with the offender and familiarity with the Disciplinary Report in question. Confidential or security information must, of course, be protected.
2. To speak with witnesses who might furnish evidence on behalf of the offender, if the offender indicates there are such witnesses whom he wishes to have called.
3. To assist the offender in completing Form JR-7, Request for Calling of Witnesses/Representative, if he plans to call witnesses.
4. To help the offender understand the charges against him and the potential consequences. You should be familiar with the procedures of the Disciplinary Committee Hearing, explain them to the offender in advance, and, if necessary during the hearing, assist the offender in understanding procedural points.
5. To assist the offender, if he so requests, in writing an appeal.

Exception: Employees who write the Disciplinary Report, who witness the reported incident, who investigate the incident, or conduct the Disciplinary Hearings may not act as Staff Representative for the particular case. If during your representation you encounter difficulties which you believe will prevent you from functioning properly (i.e., biases which would prevent you from being an offender advocate), you should request approval from the disciplinary committee chairman/hearing officer to be disqualified from the case.

1. Name of Offender	2. JIRMS #	3. Date of Incident	4. Time of Incident
5. Place of Incident	6. Job/School Assignment (Offender)	7. Housing Assignment (Offender)	
8. Rule Violated		9. Rule Number	
10. Description of Incident (Include all relevant information -- "unusual offender behavior, staff witnesses, physical evidence & disposition, immediate action including use of force"; use other side, if necessary)			

11. Signature of reporting employee		12. Name, Title, Assignment (Print)	
13. Date of Report	14. Time of Report	15. Report (copy) given to above offender by:	16. Offender's Signature:

18. Plea by Offender: ☐ Not Guilty ☐ Guilty

20. Date of Hearing:	21. Staff Representative:
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☐ Report is clear and precise. ☐ Lack of a credible defense/little or no defense. ☐ Based on his statement.

☐ The employee's version is determined to be more credible than the offender. ☐ Pled guilty/accepted guilty plea.

☐ Only defense is denying contents of report. ☐ The offender presented no evidence to refute the charges.

☐ The investigative officer's testimony was deemed more truthful and accurate than the offender. ☐ Plea bargain.

☐ The offender's demeanor led the committee/hearing officer to believe that the offender's testimony was untrue.

☐ Other \_\_\_\_\_

**23. Motions:** \_\_\_\_\_

☐ Seriousness of offense. ☐ The need to protect the institution, employees, or other.

☐ Poor Conduct record. A total of \_\_\_\_\_ rule violation(s). A total of \_\_\_\_\_ Schedule B violations since \_\_\_\_\_.  
A total of \_\_\_\_\_ # \_\_\_\_\_ rule violations since \_\_\_\_\_.

☐ Other \_\_\_\_\_

Suspended ☐ \_\_\_\_\_ Days  
Imposed ☐ \_\_\_\_\_

Suspended ☐ \_\_\_\_\_ Days  
Imposed ☐ \_\_\_\_\_

**Cost may be imposed for any property loss, damage, or medical expense occasioned through the fault of an offender who is so causing the loss, damage, or medical expenses also is found guilty through the disciplinary process of violating one or more of the rules set out in the Disciplinary Rules and Procedures for Juvenile Offenders.**

**MEMBER**



**APPEAL FROM THE DISCIPLINARY COMMITTEE**

APPELLANT: \_\_\_\_\_ DATE OF REPORT: \_\_\_\_\_  
ORIGINAL CHARGE: \_\_\_\_\_ DATE OF HEARING: \_\_\_\_\_  
CHARGE FOUND GUILTY OF: \_\_\_\_\_ LOCATION OF HEARING: \_\_\_\_\_  
COMMITTEE MEMBERS: \_\_\_\_\_ SENTENCE IMPOSED: \_\_\_\_\_  
STAFF REPRESENTATIVE: \_\_\_\_\_

SENTENCE SUSPENDED: YES NO  
PLEA: GUILTY NOT GUILTY

.....

**ISSUES**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**ARGUMENT**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**ARGUMENT, CONTINUED**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**RELIEF DESIRED**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

DATE OF APPEAL: \_\_\_\_\_  
SUBMITTED BY: \_\_\_\_\_  
NUMBER: \_\_\_\_\_ LOCATION: \_\_\_\_\_

JR-5

**APPEAL DECISION**

DECISION NUMBER: DCA \_\_\_\_\_

TO:

\_\_\_\_\_  
OFFENDER NAME JIRMS #

\_\_\_\_\_  
HOUSING

FROM: WARDEN/SUPERINTENDENT

DATE: \_\_\_\_\_

RE: DATE OF REPORT \_\_\_\_\_

DATE OF HEARING \_\_\_\_\_

ORIGINAL CHARGE \_\_\_\_\_

PLEA: GUILTY \_\_\_\_\_ NOT GUILTY \_\_\_\_\_

CHARGE FOUND GUILTY OF: \_\_\_\_\_

SENTENCE: IMPOSED ☐ SUSPENDED ☐

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

☐ I am not satisfied with this decision and wish to appeal to the Secretary in accordance with the conditions set forth in the "Disciplinary Rules and Procedures for Juvenile Offenders - 1st Edition 1993." The Secretary will only consider appeals from decisions which resulted in the imposed or suspended sentences of one or more of the following penalties: 1) Administrative Segregation/Confinement for up to 5 days; 2) Demotion of 1 level or maximum demotion to the beginning level; 3) Recommendation of transfer to a more restrictive and secure environment (such as a special unit separated from general population); 4) Loss of furlough.

DATE: \_\_\_\_\_ OFFENDER SIGNATURE: \_\_\_\_\_

Instructions to Offender: Forward to "ARP Screening Officer" within 5 days of your receipt of this decision.

JR-6

**STATEMENT OF OFFENDER RIGHTS**

\_\_\_\_\_  
(Institution)

As an offender appearing at a Disciplinary Hearing for violating an institutional rule(s) or regulation(s), you have the following rights:

1. The right to have a written copy of the charge(s) against you at least 24 hours prior to appearing before the Disciplinary Committee/Hearing Officer, unless you waive this right in writing.
2. The right to have an individual who is reasonably available to represent you during the Disciplinary Committee Hearing (Representative's name is to be specified on Form JR-7).
3. The right to make a full statement concerning the incident and to present any reasonable evidence in your behalf, including written statements from others.
4. No offender can be compelled to incriminate himself.
5. The right to be present during all phases of the hearing unless you waive your rights in writing, through obstructive behavior, or when another juvenile is giving confidential testimony.
6. The right to be advised of the Disciplinary Hearing Officer's/Committee's decision, with the facts supporting the Officer's disposition in writing; and
7. The right to appeal in accordance with the "Disciplinary Rules and Procedures for Juvenile Offenders."

JR-7

**REQUEST FOR WITNESSES/STAFF REPRESENTATIVE**

I do \_\_\_ do not \_\_\_ wish to have a representative at the Disciplinary Committee Hearing.

If so, my Representative's name is: \_\_\_\_\_

The witnesses I wish to call to present evidence in my behalf at the Disciplinary Committee Hearing are listed below and a brief statement of what each witness will be able to testify to is included:

Name: \_\_\_\_\_ Statement: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Name: \_\_\_\_\_ Statement: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Name: \_\_\_\_\_ Statement: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

I understand that the Disciplinary Committee Chairman will call those persons who are reasonably available, and who are knowledgeable of the circumstances surrounding the charge(s).

\_\_\_\_\_/\_\_\_\_\_  
(offender's signature) (date)

NOTE: RETURN THIS FORM TO THE DISCIPLINARY COMMITTEE CHAIRMAN.

JR-8

**INVESTIGATIVE REPORT**

Offender's Name: \_\_\_\_\_ Housing Area: \_\_\_\_\_

Referred by: \_\_\_\_\_ Referred to: \_\_\_\_\_

Date Referred: \_\_\_\_\_

Statement of Incident:

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Other Facts About the Incident:

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Investigator's Comments and Conclusions:

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\_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_  
(Signature of Investigator) (Title) (Date)

\_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_  
(Superintendent's Signature) (Title) (Date)

STATE OF LOUISIANA  
DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONS

\_\_\_\_\_  
(Institution)

TO BE COMPLETED BY THE OFFENDER

LOST PERSONAL PROPERTY CLAIM

1. Claimant: \_\_\_\_\_  
(Name, number, and location)

2. Date of Discovery of Loss: \_\_\_\_\_

3. Circumstances which resulted in the loss of personal property:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

4. Items lost (include description):

Value:

_____	_____
_____	_____
_____	_____

NOTE: False claims or false representations of lost items' value will subject the claimant to disciplinary action.

5. Attach to this document any proof of ownership or proof of value available to claimant.

6. A claim must be submitted within 10 days of the date of the discovery of loss. The claim is to be submitted to the Warden/Superintendent of the institution.

SUBMITTED BY: \_\_\_\_\_ DATE SUBMITTED: \_\_\_\_\_  
(Signature of claimant)



FORM 8

LOST PERSONAL PROPERTY CLAIM RESPONSE

CLAIM # \_\_\_\_\_

DATE \_\_\_\_\_

TO: \_\_\_\_\_  
OFFENDER NAME      JIRMS #      HOUSING

FROM: \_\_\_\_\_

Your request for reimbursement/settlement/replacement of your lost personal property has been reviewed with the below recommended actions:

☐ **DENIED**

\_\_\_\_ Your records were reviewed and no proof of ownership is indicated.

\_\_\_\_ Unallowable item at this institution.

\_\_\_\_ Clothing/items improperly marked according to offender posted policy.

\_\_\_\_ Item illegally obtained.

\_\_\_\_ Investigation reveals loss resulted from barter, gambling, or sale.

\_\_\_\_ Investigation has proved your claim invalid or unsubstantiated.

\_\_\_\_ Loss resulted from irresponsibility on your part to keep personal items secure in footlocker, cell, etc.

\_\_\_\_ Other \_\_\_\_\_

☐ **APPROVED**

\_\_\_\_ You are being offered state issue items as replacement for the items reported missing.

\_\_\_\_ Monetary settlement in the amount of \$ \_\_\_\_\_ will be processed.

\_\_\_\_ Other \_\_\_\_\_

Signature of Investigating Officer: \_\_\_\_\_

Signature of Offender      JIRMS #      DATE \_\_\_\_\_

Warden/Superintendent/or Designee \_\_\_\_\_

☐ I am not satisfied with this decision and wish to appeal to the Office of the Secretary.

AGREEMENT

I, \_\_\_\_\_ (Offender's name), \_\_\_\_\_ (Number), having filed a claim for lost property on \_\_\_\_\_  
\_\_\_\_\_ do hereby acknowledge receipt of \_\_\_\_\_

\_\_\_\_\_ as full settlement, compromise, and discharge of any and all liability which exists or which might exist, and do hereby agree to release and discharge the State of Louisiana (Department of Public Safety and Corrections) and any and all of its agents, representatives, officers, and employees from any and all liability for compensation, damages, and all other amounts, if any, which might be due me by reason of the loss reported on \_\_\_\_\_ (Date) (whether the liability, if any, be in damages, tort, or otherwise, or whether the liability, if any, be under the laws of the State of Louisiana, or the laws of the United States). I agree to have this claim processed and settled in accordance with the terms set forth in this agreement.

## WITNESSES:

\_\_\_\_\_

Signature of Offender

\_\_\_\_\_

Date

Warden/Superintendent Approval \_\_\_\_\_

Secretary's Approval \_\_\_\_\_

(Necessary only for monetary settlement)

## Chapter 21. Medical Reimbursement Plan

### §2101. Policy

*Policy* Cto institute the Secretary's policy that medical co-payments must comply with the provisions of La. R.S. 15:831(B)(1).

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:831(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services LR 26:331 (February 2000).

### §2103. Applicability

*Applicability* Cdeputy secretary, undersecretary, assistant secretary/office of adult services, wardens of adult institutions, and administrators of adult local jail facilities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:831(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services LR 26:331 (February 2000).

### §2105. Medical Reimbursement Plan Pursuant To R.S. 15:831(B)(1)

#### A. Inmates Housed in State Institutions

1. Procedures concerning medical co-payments are outlined in Department Regulation No. B06-001. "Health Care." Please see the section entitled "Provisions of Medical and Dental Services."

2. Inmates shall file a claim with a private medical or health care insurer, (or any public medical assistance program under which the inmate is covered and from which the inmate may make a claim), for payment or reimbursement of the cost of any such medical treatment.

#### B. Inmates Housed in Local Jail Facilities

1. If a facility has a medical reimbursement plan for non-state inmates approved as stipulated in La. R.S. 15:705(C), then such a plan is acceptable for use in obtaining reimbursement or co-payments from state inmates in the custody of the facility for medical expenses incurred. The application of the rules in said plan shall be identical for state and non-state inmates that may be housed in the facility. The plan must contain language that stipulates that no inmate will be denied medical care because of their ability to pay co-payments or make reimbursement. No further approval by the Department of Public Safety and Corrections shall be deemed necessary.

2. The facility should require that the inmate file a claim with a private medical or health care insurer, (or any public medical assistance program under which he is covered and from which the inmate may make a claim), for payment or reimbursement of the cost of any such medical treatment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:831(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services (November 1999), LR 26:331 (February 2000).



## Title 22

# CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT

## Part III. Commission on Law Enforcement and Administration of Criminal Justice

### Subpart 1. Privacy and Security Regulation

#### Chapter 1. Preface

##### §101. Preface

A. These regulations governing the privacy and security of criminal history record information in the state of Louisiana are effective after November 30, 1977. Full implementation is required by December 31, 1977.

B. The regulations were drafted by the Privacy and Security Steering Committee of the Louisiana Criminal Justice Information System (LCJIS) Advisory Board and members of the LCJIS staff in accordance with a federal and state executive mandate to the Louisiana Commission on Law Enforcement. The commission approved the regulations on October 26, 1977.

C. A separate set of guidelines and implementation instructions has also been published. These should provide significant assistance in understanding and adapting the regulations to local needs and peculiarities. Questions concerning the regulations or guidelines may be addressed to Louisiana Criminal Justice Information System, Office of Management and Planning, 1885 Wooddale Boulevard, Suite 502, Baton Rouge, Louisiana 70802, Telephone: (504) 389-7411.

[EDITOR'S NOTE: *The Louisiana Criminal Justice Information System, formerly a division of the Louisiana Commission on Law Enforcement, no longer exists. Questions concerning the regulations or guidelines may be addressed to the Louisiana Commission on Law Enforcement, 2121 Wooddale Boulevard, Baton Rouge, LA 70806; telephone: (504)925-4418.*]

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 3:447 (November 1977), amended LR 4:503 (December 1978).

#### Chapter 3. Introductory Information

##### §301. Purpose and Scope

A. In keeping with congressional findings that the privacy of an individual is directly affected by the collection, maintenance, use and dissemination of personal information;

B. Recognizing that to the extent that the maintenance of personal information is necessary for the efficient functioning of the government, it is the moral and legal obligation of the government to assure that the personal information maintained is, to the maximum extent feasible, complete and accurate;

C. Being convinced that it is of utmost importance that the integrity of personal information records be zealously protected;

D. Recognizing that the increasing use of computers and sophisticated information technology, while essential to the operations of government, has greatly magnified the harm to individual privacy that can occur from any collection, maintenance, use, or dissemination of personal information;

E. Realizing that opportunities for an individual to secure employment, insurance, credit, and his right to due process, and other legal protections are endangered by the misuse of certain information systems;

F. Acknowledging that the right to privacy is a personal and fundamental right protected by the constitution of the United States;

G. Responding to the authority granted in 42 United States Code 3701, et seq.; 28 United States Code 534; 28 Code of Federal Regulations, Chapter 1, Section 20; R.S. 15:575 et seq.; 49:951 et seq.; and Executive Designation dated November 14, 1975; and

H. Acting with the intent of protecting and furthering the interests of the citizens of the state of Louisiana, the Privacy and Security Committee of the Criminal Justice Information System Division of the Louisiana Commission on Law Enforcement and Administration of Criminal Justice (LCLE) does hereby issue these privacy and security regulations for the following purposes, and with the following scope and limitations:

I. It is the purpose of these regulations to provide safeguards for an individual against an invasion of his personal privacy, and to promote, to the maximum extent feasible, the adoption of procedures to ensure the completeness, accuracy, and integrity of criminal history record information collected, maintained, and disseminated by criminal justice agencies. This will be accomplished by requiring those agencies affected to permit an individual to determine what criminal history record information pertaining to him is collected, maintained, used, or disseminated by such agencies; permit an individual to gain access to criminal history record information pertaining to him in the records of affected agencies, to have a copy made of all or any portion thereof, and to correct or amend such records; and collect, maintain, use, or disseminate any record of criminal history information in a manner that assures that such action is for a lawful purpose, that the information is current and accurate for its intended use, and that adequate safeguards are provided to prevent the misuse or unauthorized alteration or destruction of such information.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

**HISTORICAL NOTE:** Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 3:447 (November 1977), amended LR 4:503 (December 1978).

### **§303. Application of Rules**

A. These regulations apply to all criminal justice agencies organized under the constitution or laws of the state of Louisiana which were awarded Law Enforcement Assistance Administration (LEAA) monies after July 1, 1973, for manual or automated systems which collect, store, or disseminate criminal history record information. The regulations do not directly apply to agencies which have received LEAA funds for general purposes other than the collection, storage, or dissemination of criminal history record information. For example, an agency receiving funds to implement and operate automated noncriminal history record information systems (e. g., personnel, resource allocation, performance evaluation) would not by such funding be included under these regulations.

B. These regulations apply to all criminal justice agencies organized under the constitution or laws of the state of Louisiana which are or become signatories to a user's agreement. In such instances, the user's agreement shall control the extent to which these regulations are applicable.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

**HISTORICAL NOTE:** Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 3:448 (November 1977), amended LR 4:503 (December 1978).

### **§305. Existing Rights**

Nothing contained in any of these privacy and security regulations shall be construed to reduce, eliminate, or otherwise adversely affect any rights which individuals may have under any existing Louisiana law, court decision, or administrative rule.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

**HISTORICAL NOTE:** Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 3:448 (November 1977), amended LR 4:503 (December 1978).

### **§307. Criminal History Record**

These regulations apply to criminal history record information, as defined in '317.B. The following types of record information that might contain or otherwise be included within the definition of criminal history record information are specifically excluded:

1. posters, announcements, or lists for identifying or apprehending fugitives or wanted persons;
2. original records of entry such as police blotters maintained by criminal justice agencies, compiled chronologically and required by law or longstanding custom

to be made public, if such records are accessed solely on a chronological basis;

3. court records of public judicial proceedings;
4. published court or administrative opinions;
5. public judicial, administrative, or legislative proceedings;
6. records of traffic offenses maintained by state departments of transportation, motor vehicles or the equivalent thereof for the purposes of regulating the issuance, suspension, revocation, or renewal of driver's, pilot's or other operator's licenses;
7. announcements of executive clemency;
8. juvenile records;
9. any other specific exemptions as may from time to time be provided by federal regulations, state statute or which may be particularly specified in any of these regulations.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

**HISTORICAL NOTE:** Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 3:448 (November 1977), amended LR 4:503 (December 1978).

### **§309. Effective Date**

These regulations shall be effective after November 30, 1977.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

**HISTORICAL NOTE:** Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 3:448 (November 1977), amended LR 4:504 (December 1978).

### **§311. Penalties for Violation**

Under federal law, an affected agency which willfully and knowingly violates these regulations may be subject to termination of funds made available by the Law Enforcement Assistance Administration, and a 10,000 dollar fine. Additionally, future eligibility for receipt of Law Enforcement Assistance Administration funds may be suspended until the violating agency furnishes proof of compliance with these regulations.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

**HISTORICAL NOTE:** Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 3:448 (November 1977), amended LR 4:504 (December 1978).

### **§313. Fines**

Under Louisiana law (R.S. 15:575 et seq.) an officer or official of a criminal justice agency may be subject to a fine between 50 dollars and 500 dollars for violating any rules or regulations issued by the Louisiana Criminal Justice Information System.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 15:579, R.S. 15:596, R.S. 15:1204 and R.S. 15:1207.

**HISTORICAL NOTE:** Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 3:448 (November 1977), amended LR 4:504 (December 1978).

### §315. Violating Agency

A violating agency may be barred from receiving information from the Central State Repository until such agency furnishes proof of compliance with these regulations.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

**HISTORICAL NOTE:** Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 3:448 (November 1977), amended LR 4:504 (December 1978).

### §317. Definitions

**Administration of Criminal Justice** Cperformance of any of the following activities: detention, detection, apprehension, pretrial release, post-trial release, prosecution, adjudication, correctional supervision, or rehabilitation of accused persons or criminal offenders. The administration of criminal justice shall include criminal identification activities and the collection, storage, and dissemination of criminal history record information.

#### Affected Agency C

1. any criminal justice agency which was awarded Law Enforcement Assistance Administration monies after July 1, 1973, for manual or automated systems which collect, store, or disseminate criminal history record information;

2. any criminal justice agency which is or becomes a signatory to a user's agreement.

3. any noncriminal justice agency which is or becomes a signatory to a user's agreement.

**Central State Repository** Cthat collection of criminal history record information within the Louisiana Department of Public Safety, which is jointly collected, stored, and managed pursuant to mutual agreement between the Division of State Police, Bureau of Criminal Identification and the Louisiana Commission on Law Enforcement, Criminal Justice Information System Division.

**Criminal History Record Information** Cinformation collected by criminal justice agencies on individuals consisting of identifiable descriptions and notations of arrests, detentions, indictments, information, or other formal criminal charges, and any disposition arising therefrom, sentencing, correctional supervision, and release. The term does not include identification information such as fingerprint records to the extent that such information does not indicate involvement of the individual in the criminal justice system.

**Criminal History Record Information System** C a system including the equipment, facilities, procedures, agreements,

and organizations, thereof, for the collection, processing, preservation, or dissemination of criminal history record information.

**Criminal Justice Agency** Conly those public agencies at all levels of government which perform as their primary function activities relating to:

1. the apprehension, prosecution, adjudication, or rehabilitation of criminal offenders;

2. the collection and analysis of crime statistics pursuant to statutory authority;

3. the collection, storage, processing, dissemination, or usage of information originating from agencies described in this Chapter;

**Direct Access** Chaving the authority to access the criminal history record data base, whether by manual or automated methods.

**Direct Access** Cindividual access to personal criminal history record information contained in the manual or automated files of an affected criminal justice agency, excepting the Central State Repository, when such access is sought under the provisions of '705, and the individual requesting access or his personal representative is physically present at the place where the records are kept or at the office of the custodian of the record sought.

**Disposition** Cproceedings have been concluded, including information disclosing that the police have elected not to refer a matter to a prosecutor or that a prosecutor has elected not to commence criminal proceedings and also disclosing the nature of the termination in the proceedings; or information disclosing that proceedings have been indefinitely postponed. Dispositions shall include, but not be limited to: acquittal, acquittal by reason of mental incompetence, case continued without finding, charge dismissed, charge dismissed due to insanity, charge dismissed due to mental incompetency, charge still pending due to insanity, charge still pending due to mental incompetence, guilty plea, nolle prosequi, no paper, nolo contendere plea, convicted, youthful offender determination, deceased, deferred disposition, dismissed-civil action, found insane, found mentally incompetent, pardoned, probation before conviction, sentence commuted, adjudication withheld, mistrial Bdefendant discharged, placed on probation, paroled, or released from correctional supervision.

**Dissemination** Cthe release by transmission of criminal history record information by an agency to another agency or individual by oral, written, or electronic methods.

**Dissemination Log** C an automated or manual record of information relating to the individual or agency to which criminal history record information has been disseminated. This record should contain the following data elements: a tracking, serial, or identification number, the agency or individual to whom criminal history record information is

released, the address of the agency or individual, the date of release or notification, the individual to whom the information relates, the items of information released and how finished, the original entry or correction, and the name of the releasing official.

**Eligible Noncriminal Justice Agency**Ca noncriminal justice agency, individual, or individuals having:

1. official authority, pursuant to a statute, executive order, administrative rule, or court order;
2. formal authority, pursuant to a written agreement with a criminal justice agency, to perform a service or function within the scope of the legitimate activities of a criminal justice agency.

**Executive Order**Can order of the president of the United States or the chief executive of a state which has the force of law and which is published in a manner permitting regular public access thereto.

**Personal Representative**Any person, including, but not limited to legal counsel, who possesses a sworn authorization empowering him to represent an individual in the viewing or challenging of the authorizing individual's criminal history record information.

**Primarily Affected Agency**Any criminal justice agency organized under the constitution or laws of the state of Louisiana which was awarded Law Enforcement Assistance Administration monies after July 1, 1973, for manual or automated systems which collect, store, or disseminate criminal history record information.

**Secondarily Affected Agency**C

1. any criminal justice agency organized under the constitution or laws of the state of Louisiana which is or becomes a signatory to a user's agreement;
2. any noncriminal agency which is or becomes a signatory to a user's agreement.

**State**Any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.

**Statute**Can act of congress or state legislature or a provision of the constitution of the United States or of a state.

**User's Agreement**Ca written agreement entered into by a certified criminal justice agency and/or a requesting noncriminal justice agency and/or a criminal justice agency that has not received LEAA funds for system support since July 1, 1973. The agreement shall specify the basis of eligibility for receipt of criminal history records, and an acknowledgment by the recipient agency that it is subject to the terms and conditions of the Commission on Law Enforcement Privacy and Security regulations.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

**HISTORICAL NOTE:** Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 3:448 (November 1977), amended LR 4:504 (December 1978).

## Chapter 5. User's Agreement

### §501. Purpose

It is the purpose of this regulation to insure statewide compliance with privacy and security regulations by requiring all recipients of criminal history record information from primarily affected agencies to sign user's agreements, and to provide for the minimum terms and conditions of such user's agreements.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

**HISTORICAL NOTE:** Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 3:449 (November 1977), amended LR 4:505 (December 1978).

### §503. Signers and Signatories

Every primarily affected agency, excluding official custodians of court records, shall, prior to disseminating criminal history record information to any criminal justice agency which is not otherwise bound by the Louisiana privacy and security regulations, require such an agency to sign a user's agreement, provided that upon presentation of proof that it is already a signatory to a valid user's agreement, the information requesting agency may not be required to sign an additional user's agreement.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

**HISTORICAL NOTE:** Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 3:449 (November 1977), amended LR 4:505 (December 1978).

### §505. Signers

Every primarily affected agency, excluding official custodians of court records, shall, prior to disseminating criminal history record information to an eligible noncriminal justice agency which is not otherwise bound by the Louisiana privacy and security regulations, require such an agency to sign a user's agreement.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

**HISTORICAL NOTE:** Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 3:450 (November 1977), amended LR 4:505 (December 1978).

### §507. Eligible Noncriminal Justice Agency

An eligible noncriminal justice agency, for purposes of this Part, shall constitute every noncriminal justice agency receiving access to criminal history records on a regular and recurring basis or on any basis other than the established procedures under the Louisiana Public Records Law.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.



**HISTORICAL NOTE:** Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 3:450 (November 1977), amended LR 4:505 (December 1978).

### **§509. Forwarding Copies**

Whenever a primarily affected agency, excluding official custodians of court records, signs a user's agreement with an otherwise non affected agency, the primarily affected agency shall immediately forward a copy of the signed user's agreement to the Privacy and Security Committee. Copies of all user's agreements shall be kept on file by the signatory agencies, and shall be made available for public inspection upon demand.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

**HISTORICAL NOTE:** Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 3:450 (November 1977), amended LR 4:505 (December 1978).

### **§511. Privacy and Security Form Number 7**

Every primarily affected agency or secondarily affected agency, excluding courts, which enters into an agreement permitting an eligible agency access to criminal history record information shall employ LCLE-Privacy and Security Form No. 7 for the purpose of fulfilling the obligation imposed by this regulation.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

**HISTORICAL NOTE:** Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 3:450 (November 1977), amended LR 4:505 (December 1978).

## **Chapter 7. Individual Rights of Access to Automated and Manual Criminal History Record Information**

### **§701. Purpose**

It is the purpose of this regulation to extend individual rights of access to personal criminal history records beyond the rights currently provided by the Louisiana Public Record Act, as required by federal regulations, and to provide a mechanism for the implementation of those rights.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

**HISTORICAL NOTE:** Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 3:450 (November 1977), amended LR 4:505 (December 1978).

### **§703. Record Viewing**

Each individual shall have the right to view the automated or manual criminal history record information which specifically relates to him, provided that only individual criminal history record information contained in the records of affected criminal justice agencies organized under the

constitution of laws of the state of Louisiana shall be accessible under this regulation.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

**HISTORICAL NOTE:** Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 3:450 (November 1977), amended LR 4:505 (December 1978).

### **§705. Granting Access**

Any individual electing to seek direct access to his automated or manual personal criminal history record under this Chapter shall be granted such access upon fulfillment of the following conditions:

1. the request for access must be in writing, and must be presented to an affected criminal justice agency;
2. the request for access must be in writing, and must be presented to an affected criminal justice agency;
3. the request for access must be presented during the regular office or working hours of the agency which has custody or control of the record;
4. the request for access must be specific enough to enable the person charged with the care or custody of the record to reasonably ascertain the identity of the precise record sought. Specificity requirements may include fingerprints and such personal identifiers as may be essential to the location and retrieval of the record sought.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

**HISTORICAL NOTE:** Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 3:450 (November 1977), amended LR 4:505 (December 1978).

### **§707. Time for Viewing Records**

Individuals or their personal representatives seeking access under this Subpart shall be allowed to view the desired individual criminal history record within a reasonable time, not to exceed three days, provided that where fingerprint classification is an essential prerequisite to the location and retrieval of the record sought, the time period within which viewing must be made possible may be extended by an additional thirty days.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

**HISTORICAL NOTE:** Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 3:450 (November 1977), amended LR 4:505 (December 1978).

### **§709. Viewing Procedure (Central State Repository)**

An individual wishing to view automated or manual criminal history record information specifically relating to himself and contained in the records of the Central State Repository shall be granted the right to view such records upon:

1. submitting a written and signed request for viewing to an affected criminal justice agency, other than the Central State Repository, as outlined in ' 715;

2. submitting to fingerprinting for the purpose of positively establishing the identity of the requesting individual; and

3. paying a 10 dollar fee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 3:450 (November 1977), amended LR 4:505 (December 1978).

#### **§711. Viewing Procedure (Other than Central State Repository)**

An individual wishing to view automated or manual criminal history record information specifically relating to himself and contained in the file of any affected criminal justice agency, other than the Central State Repository or the agency to which the request is submitted, may gain access to such information by:

1. presenting a written and signed request for viewing to any affected agency, other than the Central State Repository, as outlined in ' 715. Such request shall describe with reasonable particularity the records of which viewing is sought, and shall at a minimum state the places where it is believed such records may be kept, and the approximate date of occurrence of the incidents which form the subject of the records requested. Individuals or personal representatives seeking to query criminal justice agencies which maintain criminal history files accessible solely by fingerprint classification numbers must provide the querying agency with a set of fingerprints of the individual seeking access. LCLEB Privacy and Security Form Number 1 shall be used for this purpose;

2. submitting any required positive identifiers, including fingerprints, for the purposes of establishing both the identity of the requesting individual and correctly locating the records sought;

3. paying a five dollar fee for each affected criminal justice agency to be queried. An additional five dollar fee may be levied by the querying agency for each query forwarded.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 3:450 (November 1977), amended LR 4:505 (December 1978).

#### **§713. Personal Representative; Positive Proof**

When criminal history record information is requested by a personal representative under ' 705 through ' 711, the representative must present positive proof of the identity of the individual actually involved as well as a sworn authorization from the involved individual. Positive proof of

identity in this Section shall be understood to mean fingerprints. Upon presentation on the authorization and positive identifier, the representative shall be permitted to request, examine, and/or challenge the criminal history record information specifically relating to the involved individual.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 3:450 (November 1977), amended LR 4:506 (December 1978).

#### **§715. Queries**

Queries directed to any criminal justice agency shall be launched from any affected sheriff's office or police department. In the parish of Orleans, Individuals shall initiate queries through the New Orleans Police Department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 3:450 (November 1977), amended LR 4:506 (December 1978).

#### **§717. Information from Central State Repository**

If the information requested by the individual must be obtained from the Central State Repository (CSR), the CSR shall forward the information to the requesting agency within 45 days of receipt of the request, and the requesting agency shall permit the viewing of the information within a reasonable time after receipt. The viewing individual may make a written summary of the information viewed, and may take with him such a summary. A copy of the record obtained from the Central State Repository shall be furnished to the individual upon request. Such copy should be prominently marked or stamped to indicate that the copy is for review and challenge only and that any other use thereof would be a violation of 42 United States Code Section 3771.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 3:450 (November 1977), amended LR 4:506 (December 1978).

#### **§719. Posting Public Notice**

Every affected criminal justice agency shall post a public notice informing individuals of their right to access and to administratively challenge the completeness or accuracy of their individual criminal history records. Additionally, every individual seeking to avail himself of the querying procedures set forth in this regulation shall be provided with a list of all affected agencies, and informed of the significance of querying a nonaffected agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

**HISTORICAL NOTE:** Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 3:451 (November 1977), amended LR 4:506 (December 1978).

### **§721. Cooperation**

Every affected criminal justice agency which has custody of, control over, or access to automated or manual individual criminal history record information shall make available facilities and personnel necessary for such viewing, and shall in all respects maintain a cooperative attitude toward individuals requesting viewing. Viewing shall occur only within the facilities of a criminal justice agency, and only under the supervision and in the presence of a designated employee or agent of a criminal justice agency.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

**HISTORICAL NOTE:** Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 3:451 (November 1977), amended LR 4:506 (December 1978).

### **§723. Diligence**

Every affected criminal justice agency shall, in every instance, diligently seek to provide the information requested. Every out-of-parish criminal justice agency listed on the request for viewing shall be contacted by mail, communication device, or personally within seven days of receipt of the request for viewing. Five dollars shall be assessed for each agency queried by the agency to which the individual submits his request, and shall be forwarded to each queried agency along with the request for viewing. An additional five dollar fee may be levied by the querying agency for every query forwarded. Querying agencies shall provide positive identifiers in accordance with ' 711.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

**HISTORICAL NOTE:** Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 3:451 (November 1977), amended LR 4:506 (December 1978).

### **§725. Time for Reply**

Every affected criminal justice agency which receives a request for information must make every effort to locate the information requested, and shall in any event forward a reply to the requesting agency within seven normal working days of receipt of the request, except as provided for requests to the Central State Repository. In such instances where the responding agency maintains criminal history record files accessible solely by fingerprint classification numbers, the response time may be extended up to a maximum of 30 days to allow for the classification of the fingerprints accompanying the query. Such classification may be performed by the responding agency or by the Central State Repository.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

**HISTORICAL NOTE:** Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 3:451 (November 1977), amended LR 4:506 (December 1978).

### **§727. Fingerprints**

Every affected sheriff's office or police department shall fingerprint individuals requesting that the Central State Repository be queried. In such instances where an authorized representative is presenting a query to the Central State Repository on behalf of an individual, the representative shall supply at least two sets of the represented individuals' fingerprints on standard fingerprint cards. The fee charged for querying the Central State Repository and supplying a copy of the results of such query shall be 10 dollars. Five dollars of this amount shall be forwarded to the Central State Repository along with the query, and the remaining five dollars shall be placed in the treasury of the criminal justice agency to which the individual submits the request for viewing.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

**HISTORICAL NOTE:** Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 3:451 (November 1977), amended LR 4:506 (December 1978).

### **§729. Viewing Hours**

Individual viewing may, at the discretion of each criminal justice agency, be limited to ordinary daylight business hours.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

**HISTORICAL NOTE:** Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 3:451 (November 1977), amended LR 4:506 (December 1978).

### **§731. Privacy and Security Form 2**

A record of each individual viewing shall be maintained by each affected criminal justice agency by the completion and preservation of LCLEB Privacy and Security Form Number 2. Each such form shall be completed and signed by the supervisory employee or agent present at the review. The reviewing individual shall be required to certify by his signature that he has viewed the criminal history record information requested.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

**HISTORICAL NOTE:** Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 3:451 (November 1977), amended LR 4:506 (December 1978).

## **Chapter 9. Individual Right To Administrative Review of the Content, Completeness or Accuracy of Individual Criminal History Record Information**

### **§901. Purpose**

It is the purpose of this regulation to provide a means for administrative challenge, and ultimate correction of incomplete or inaccurate individual criminal history records.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

**HISTORICAL NOTE:** Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 3:451 (November 1977), amended LR 4:506 (December 1978).

### **§903. Challenge; Correction**

Each viewing individual shall have the right to challenge and request correction of the content, completeness, or accuracy of his individual criminal history record. Each individual shall be informed at the time of viewing of his rights of challenge under this regulation. Individuals shall have a right of administrative appeal under this regulation to seek redress for the denial of rights granted by any of these regulations.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

**HISTORICAL NOTE:** Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 3:451 (November 1977), amended LR 4:506 (December 1978).

### **§905. Initial Challenge**

This regulation provides the exclusive means for initial challenge of the content, completeness, or accuracy of individual criminal history record information, provided that where the individual criminal history record information under challenge originated from any file, automated or manual, maintained by the judiciary for the purpose of recording process and results of public court proceedings, this regulation shall not be applicable. In the instance last provided for, the sole formal means of challenge or correction shall be a civil suit filed in a state or federal district court.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

**HISTORICAL NOTE:** Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 3:451 (November 1977), amended LR 4:506 (December 1978).

### **§907. Privacy and Security Form Number 3**

If after viewing his individual criminal history record, the individual wishes to challenge or request correction of such record, he may do so by submitting to the criminal justice agency which originated the challenged entries LCLE-

Privacy and Security Form Number 3, a complaint which shall contain particularized written exceptions to the criminal history record's contents, completeness, or accuracy. The complaint shall include an affirmation, signed by the individual or his legal representative, that the exceptions are made in good faith and are true to the best of the affiant's knowledge, information, and belief. A copy of the complaint shall be forwarded to the LCLE Privacy and Security Committee. If, subsequent to viewing, an individual who was not previously fingerprinted wishes to challenge or correct his record, he must submit to fingerprinting so that it can be absolutely assured that the challenging individual is the subject of the record which he seeks to challenge or correct.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

**HISTORICAL NOTE:** Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 3:451 (November 1977), amended LR 4:506 (December 1978).

### **§909. Privacy and Security Form Number 4**

Within each affected criminal justice agency, a review officer shall be designated as the person responsible for receiving and processing complaints received under '907 above. Upon receipt of such complaints, each review officer shall, within 45 days, conduct an audit of the individual's criminal history record to determine the validity of the exceptions. The Privacy and Security Committee and the challenging individual or his legal representative shall be informed in writing of the results of the audit within 15 days after such results are final. LCLE-Privacy and Security Form Number 4 shall be used for this purpose.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

**HISTORICAL NOTE:** Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 3:451 (November 1977), amended LR 4:506 (December 1978).

### **§911. Alterations**

Should the audit referred to in '909 disclose inaccuracies or omissions in the information, the criminal justice agency shall cause appropriate alterations or additions to be made to the information and shall cause notice of such alterations or additions to be given to LCLE, the individual involved, and to any other criminal justice agencies or private organizations to which that individual's criminal history record information has been disseminated within the previous 90 days, and in every instance the Central State Repository shall be notified of the substance of the alteration or addition.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

**HISTORICAL NOTE:** Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 3:452 (November 1977), amended LR 4:507 (December 1978).

**§913. Appeal**

If the criminal justice agency declines to modify or supplement the individual's criminal history record in whole or in part, the individual or his legal representative may require review of the criminal justice agency's decision by perfecting, within 30 days of the mailing of the audit results, an appeal to the LCLE Privacy and Security Committee. The Privacy and Security Committee shall appoint hearing officers to hear such appeals. Failure to timely perfect an appeal shall bar subsequent challenges of that portion of the individual criminal history record in controversy.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

**HISTORICAL NOTE:** Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 3:452 (November 1977), amended LR 4:507 (December 1978).

**§915. Privacy and Security Form Number 5**

Appeals shall be perfected upon actual delivery to the Privacy and Security Committee of a petition for review. The petition for review shall be signed and in writing and shall include a concise statement of the alleged deficiencies or inaccuracies of the individual's criminal history record, shall state the date and result of any review by the criminal justice agency, and shall be accompanied by a sworn verification of the facts alleged in the petition for review. LCLE-Privacy and Security Form Number 5 may be used for perfecting the appeal.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

**HISTORICAL NOTE:** Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 3:452 (November 1977), amended LR 4:507 (December 1978).

**§917. Review Process**

Upon receipt of the petition for review, the hearing officer shall docket the case and notify the criminal justice agency and the individual or his legal representative of the time, place, and nature of the hearing; the legal authority and jurisdiction under which the hearing is to be held; the particular statutes, rules, and regulations involved; the nature of the matters asserted in the petition for appeal. Both the individual and the criminal justice agency shall have adequate opportunity to respond and present evidence on all issues of fact involved and argument on all issues of law and policy involved and to conduct such cross-examination as may be required for a full and true disclosure of the facts.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

**HISTORICAL NOTE:** Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 3:452 (November 1977), amended LR 4:507 (December 1978).

**§919. Louisiana Administrative Procedure Act**

Rules of evidence, oaths and affirmations, subpoenas, depositions and discovery, confidential privileged

information, examination of evidence by agency, decisions and orders, rehearings, ex parte consultations and recusations, judicial review and other such matters shall be governed by the provisions of the Louisiana Administrative Procedures Act, R.S. 49:950 et seq.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 15:1204, R.S. 15:1207 and R.S. 49:950 et seq.

**HISTORICAL NOTE:** Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 3:452 (November 1977), amended LR 4:507 (December 1978).

**§921. Record**

A record of all proceedings shall be preserved and provided as required by R.S. 49:955(E) and (F).

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 15:1204, R.S. 15:1207 and R.S. 49:955.

**HISTORICAL NOTE:** Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 3:452 (November 1977), amended LR 4:507 (December 1978).

**§923. Privacy and Security Form Number 6**

Parties shall be entitled to notice of the final decision of the hearing officer, LCLE-Privacy and Security Form Number 6 may be used by the hearing officer to direct such notice to the parties.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

**HISTORICAL NOTE:** Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 3:452 (November 1977), amended LR 4:507 (December 1978).

**§925. Petition; Bond; Timing**

If, after receiving notice of the decision or order of the hearing office, the individual or the involved criminal justice agency is reasonably convinced that grounds exist in the record for reversal or modification of the hearing officer's decision or order, a petition for review accompanied by a bond (set by the hearing officer) sufficient to pay the cost of transcribing the record, may be submitted within 30 days to the Privacy and Security Committee. Failure to so petition shall bar subsequent challenges of that portion of the individual criminal history record contested.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

**HISTORICAL NOTE:** Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 3:452 (November 1977), amended LR 4:507 (December 1978).

**§927. Petition and Argument**

If the petition for review, accompanied by adequate bond for transcription costs, is timely submitted to the Privacy and Security Committee, copies of the petition for review shall be sent to three members of the Privacy and Security Committee, such members being selected on a rotating basis. Within 14 days of submission of the petition for review, the same three members shall decide by personal or telephonic

vote whether full review is denied, the petitioning part may pursue rights of judicial review granted under R.S. 49:964. If full review is granted, the record shall be transcribed and circulated among at least seven members of the Privacy and Security Committee. A time and date, within 30 days of transcription of the record, shall be set for the presentation of written or oral argument to a quorum of at least five of the seven privacy and security members who have read the transcribed record.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 15:1204, R.S. 15:1207 and R.S. 49:964.

**HISTORICAL NOTE:** Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 3:452 (November 1977), amended LR 4:507 (December 1978).

### **§929. Decisions, Orders, Rehearings, Appeals**

Decisions, orders, rehearings, and appeals from decisions or orders of the Privacy and Security Committee shall be in accordance with ' 919 and ' 923.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

**HISTORICAL NOTE:** Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 3:452 (November 1977), amended LR 4:507 (December 1978).

### **§931. Writs**

The Privacy and Security Committee is hereby authorized to seek writs of mandamus or injunction to enforce final, nonappealable orders and decisions of the committee and the hearing officers.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

**HISTORICAL NOTE:** Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 3:452 (November 1977), amended LR 4:507 (December 1978).

### **§933. Challenges; Accuracy**

Individual criminal history records challenged under the provisions of this regulation shall be deemed to be accurate, complete, and valid until otherwise ordered.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

**HISTORICAL NOTE:** Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 3:452 (November 1977), amended LR 4:507 (December 1978).

### **§935. Dissemination of Information**

Upon final determination that the content of an individual criminal history record is inaccurate or incomplete, the affected agency which originated the inaccurate or incomplete entry shall provide the individual or his legal representative with a list of the noncriminal justice agencies to which the inaccurate or incomplete criminal history record information has been disseminated within a 90 day period immediately preceding the final disposition of the challenge.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

**HISTORICAL NOTE:** Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 3:452 (November 1977), amended LR 4:507 (December 1978).

## **Chapter 11. Completeness and Accuracy**

### **§1101. Purpose**

It is the purpose of this regulation to establish minimum standards for reporting criminal dispositions and updating criminal history records to include such dispositions. It is intended that this regulation supplement and reinforce the LCJIS Complete Disposition Reporting System. Because inaccurate or incomplete criminal history record information presents a serious danger to individual rights of privacy and due process, every criminal justice agency should strive to maintain accurate, up-to-date criminal history records.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

**HISTORICAL NOTE:** Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 3:452 (November 1977), amended LR 4:507 (December 1978).

### **§1103. Reporting Dispositions**

Every affected agency shall report dispositions (as defined in ' 335) which occur as a result of a transaction initiated by such agency within 90 days of the occurrence of the disposition. Dispositions shall be reported as required by the Louisiana Criminal Justice Information System.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

**HISTORICAL NOTE:** Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 3:452 (November 1977), amended LR 4:507 (December 1978).

### **§1105. Louisiana Criminal Justice Information System**

Every affected agency shall establish procedures for updating criminal history records using disposition data which shall be distributed by the Louisiana Criminal Justice Information System.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

**HISTORICAL NOTE:** Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 3:452 (November 1977), amended LR 4:507 (December 1978).

### **§1107. Minimal External Search**

Every affected agency shall establish procedures providing for a minimal external search for a disposition prior to disseminating criminal history record information relative to a specific arrest or charge when it appears from the nature of the arrest or charge that a disposition should have occurred, and none is noted in the record.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 3:453 (November 1977), amended LR 4:507 (December 1978).

## **Chapter 13. Dissemination and correction of Records and the Maintenance of Logs**

### **§1301. Purpose**

It is the purpose of this regulation to provide direction and guidance concerning the control of dissemination and correction of criminal history record information (CHRI) to individuals or agencies as required by the federal regulations (Title 28), through the maintenance of certain logs, and to provide a vehicle for correcting erroneous information. Since dissemination records are viewed by the regulations as a key restraint on erroneous dissemination, a deterrent to the illegal use of information disseminated and a supporting document to quality assurance audit trails (Chapter 15), the maintenance of logs is mandatory.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 3:453 (November 1977), amended LR 4:507 (December 1978).

### **§1303. Dissemination of Criminal History Record Information**

These regulations impose no restrictions on the dissemination of CHRI where the court transactions or dispositions have included a conviction or convictions. However, where CHRI contains nonconviction data, i.e. where records contain arrest data, citation, summons, or bill(s) of information which have not resulted in a conviction or guilty plea, and acquittals; dismissals; information that a matter was not referred for prosecution, that the prosecutor has not commenced criminal proceedings, that proceedings have been indefinitely postponed; and records of arrest unaccompanied by disposition that are more than one year old and in which no prosecution is actively pending, these regulations now impose restrictions against dissemination of that portion of CHRI containing nonconviction data to noncriminal justice agencies not otherwise permitted access to such information by state statute. (' 1305.B and ' 1309)

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 3:453 (November 1977), amended LR 4:508 (December 1978).

### **§1305. Nonconviction Data**

Nonconviction data may only be disseminated to:

1. criminal justice agencies for criminal justice activity and employment;

2. public and private agencies authorized by state and federal statute, executive order, local ordinance or court decision, (See ' 1309);

3. individuals and agencies pursuant to a specific agreement with a criminal justice agency to provide criminal justice services, (e.g. consultants);

4. individuals and agencies engaged in research, evaluative or statistical activities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 3:453 (November 1977), amended LR 4:508 (December 1978).

### **§1307. Access, Review, Challenge, Appeal**

Nothing in this regulation abrogates the right of individuals (or their authorized representatives) to access, review, challenge, or appeal criminal history information about themselves as provided for in Chapter 7 and Chapter 9.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 3:453 (November 1977), amended LR 4:508 (December 1978).

### **§1309. Copies**

Upon application, the Central State Repository (Bureau of Criminal Identification) may furnish a copy of all information available pertaining to the identification and history of any person or persons of whom the bureau has a record or any other necessary information to any federal, state, or local government regulatory, investigative, licensing, or bonding agencies which may require fingerprinting, in connection with their authorized duties, functions and powers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 3:453 (November 1977), amended LR 4:508 (December 1978).

### **§1311. Logging; Privacy and Security Form Number 8**

In order to maintain accountability over the full scale of collection, storage, and dissemination of CHRI, dissemination transactions records in the form of a log shall be kept by each criminal justice agency. The logging is required both to support the audit process and as a means of correcting erroneous dissemination. Logs may be kept as shown on LCLE Privacy and Security Form Number 8 but must, as a minimum, contain the following data elements:

1. a tracking, serial, or identification number in order to provide positive identification linkage between CHRI disseminated and the record from which extracted;

2. agency or individual to which or whom CHRI released;
3. address of agency or individual;
4. date of release or notification;
5. individual to whom information relates;
6. items of information released and how furnished (i.e., copy provided, written out by hand, mailed, teletype or computer terminal printout);
7. original entry or correction (indicate "O" or "C" as appropriate);
8. releasing official.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 3:453 (November 1977), amended LR 4:508 (December 1978).

### **§1313. Correction Record and the Dissemination Log**

Since identification of agencies or individuals receiving erroneous CHRI is possible from the dissemination log and since federal regulations require notification of each recipient of inaccurate or erroneous CHRI (unless it falls outside of the 90 day limit specified in '911) a corrections record will also be kept using the dissemination log. The minimum data elements for a correction entry are essentially similar to those specified for a dissemination entry. The tracking or serial number will be identical to the identification number provided for the original information on the dissemination log. The log page number of the original entry will be placed next to the "C" in the "Original or Correction" column of the log in order to maintain audit trail continuity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 3:453 (November 1977), amended LR 4:508 (December 1978).

### **§1315. Log Period; Verification**

All logs are to be preserved for a period of not less than one year from the earliest date of release of information or notification of correction. Logs will be made available for audit and verification of compliance with the regulations by the commission, the Privacy and Security Committee or their designated staff members at such time as they may require.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 3:453 (November 1977), amended LR 4:508 (December 1978).

### **§1317. No Record; No Logging**

When a response to an inquiry is "No Record" or essentially negative, no logging of the response is required.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 3:453 (November 1977), amended LR 4:508 (December 1978).

### **§1319. Transmission of Hardcopy**

Corrections to records shall be forwarded in hardcopy form such as letter, teletype, or computer terminal printout within 14 days after determining erroneous information has been disseminated. If the original dissemination is older than 90 days and the 90 day record maintenance notification has been imposed, and a correction is indicated, the correction should be made but need not be transmitted, except to the Central State Repository.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 3:453 (November 1977), amended LR 4:508 (December 1978).

## **Chapter 15. Audits and Quality Control**

### **§1501. Purpose**

It is the purpose of this regulation to interpret the requirements of the federal regulations as they pertain to:

- a. the quality of the information the criminal justice agencies collect, store, and disseminate; and
- b. the systematic and annual audits to be performed in order to verify adherence to the privacy and security regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 3:453 (November 1977), amended LR 4:508 (December 1978).

### **§1503. Quality Information**

The quality of information which the criminal justice agencies collect and use is an important privacy consideration. Quality information issues usually fall into one or both of two categories; namely, completeness and/or accuracy. Achieving high quality record information is largely a matter of good procedures; it requires a rigorous, systematic approach to record-keeping and a high degree of cooperation among the participating agencies. Agencies shall therefore, institute procedures which implement these requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 3:453 (November 1977), amended LR 4:508 (December 1978).



**§1505. Written Procedures**

Agencies shall likewise develop written procedures which comply with the basic provisions of Chapter 11.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 3:453 (November 1977), amended LR 4:508 (December 1978).

**§1507. Quality Assurance Audits**

There are basically two types of quality assurance audits required periodically. The systematic audit is required of an agency which collects, maintains and disseminates CHRI as a means of minimizing errors or omissions in the completeness and accuracy of the records. This audit is actually a quality control mechanism and will usually be performed on a periodic and regular basis by the agency itself. In contrast, the annual audit is an examination by an outside agency of the extent to which an agency is complying with the regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 3:453 (November 1977), amended LR 4:508 (December 1978).

**§1509. Systematic Audit; Privacy and Security Form Number 9**

The systematic audit refers to a combination of systems and procedures employed both to ensure, to the extent possible, completeness and to verify accuracy. The systematic audit is also an internal procedure which basically provides for a comparison between CHRI and source documents or reporting forms, as appropriate, in order to check accuracy and completeness. In addition, this audit provides for an inspection of an agency's systematic record keeping practices. Accordingly, agencies shall implement a systematic audit procedure in accordance with the guidelines furnished by the Louisiana Criminal Justice Information System (LCJIS) staff and utilizing LCLE-Privacy and Security Form Number 9 (Agency Systematic Audit Checkoff List).

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 3:453 (November 1977), amended LR 4:508 (December 1978).

**§1511. Random Sampling**

The annual audit will be performed on a random sample of all affected agencies in the state. All affected agencies must fully cooperate in the conduct of the annual audit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of

Criminal Justice, LR 3:454 (November 1977), amended LR 4:509 (December 1978).

**§1513. Procedures**

LCJIS shall audit, on a periodic basis, a random sampling of agencies to provide statistically significant examinations of the accuracy and completeness of data maintained and to verify adherence to the regulations. Sampling and detailed audit procedures will be as indicated in LCJIS furnished guidelines and implementing directives.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 3:453 (November 1977), amended LR 4:509 (December 1978).

**§1515. Annual Audit**

The annual audit will be performed by members of the LCJIS staff who are familiar with the agencies and the requirements of the regulations. Agencies to be audited will be given a minimum of 30 days written notice prior to an annual audit being conducted. On conclusion of the annual audit, the staff will give the agency an oral debriefing and subsequently, within 30 days, a written, formal critique highlighting deficiencies and recommending corrective action. Field agents making regular, subsequent visits will verify corrective action taken.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 3:454 (November 1977), amended LR 4:509 (December 1978).

**§1517. Documentation**

At the time of the audit, the audited agency will have ready to present to the audit team such documentation as may be required by LCJIS, including but not limited to:

1. evidence of procedural compliance including security;
2. copies of systematic audits performed;
3. source records as may be requested;
4. dissemination logs;
5. rights of access, appeals, and certification forms.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 3:454 (November 1977), amended LR 4:509 (December 1978).

**§1519. Correction of Deficiencies**

Audited agencies with serious deficiencies as indicated in the formal critique must correct these deficiencies and will render written, corrective action reports to LCJIS monthly until the deficiency is eliminated.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 3:454 (November 1977), amended LR 4:509 (December 1978).

## Chapter 17. Security of Criminal History Information

### §1701. Purpose

It is the purpose of this regulation to establish minimum standards governing the achievement and maintenance of physical security, personnel security and programming security within agencies maintaining criminal history records.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 3:454 (November 1977), amended LR 4:509 (December 1978).

### §1703. Environmental Hazards

Affected agencies shall institute procedures for the protection of criminal history record from environmental hazards including fire, flood, and power failure. Appropriate measures may include: adequate fire detection and quenching systems, protection against water and smoke damage, fire resistant materials on walls and floors, air conditioning systems, emergency power sources, and backup files.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 3:454 (November 1977), amended LR 4:509 (December 1978).

### §1705. Security Procedures

Affected agencies shall adopt security procedures which limit access to criminal history files. These procedures may include use of guards, badges, keys, passwords, sign-in logs or similar controls. Facilities housing criminal history record shall be so designed and constructed as to reduce the possibility of physical damage to the records. Appropriate measures may include physical damage to the records. Appropriate measures may include physical limitations on access, security storage for information media, adequate lighting, detection and warning devices, perimeter barriers, heavy-duty, nonexposed walls and closed circuit television.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 3:454 (November 1977), amended LR 4:509 (December 1978).

### §1707. Investigation of Applicants

Applicants for employment and those presently employed in the maintenance of criminal history records shall consent to an investigation of their character, habits, previous employment, and other matters necessary to establish their good moral character, reputation, and honesty. Giving false information shall disqualify an applicant from employment and subject a present employee to dismissal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 3:454 (November 1977), amended LR 4:509 (December 1978).

### §1709. Investigations

Investigations should be conducted in such a manner as to provide sufficient information to enable the appropriate officials to determine employability and fitness of persons entering sensitive positions. Investigations of applicants should be conducted on a preemployment basis and the resulting reports used as a personnel selection device.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 3:454 (November 1977), amended LR 4:509 (December 1978).

### §1711. Security Clearances

Systems personnel including terminal operators in remote locations, as well as programmers, computer operators, and others working at or near the central processor, shall be assigned appropriate security clearances and should have those clearances renewed periodically after investigation and review.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 3:454 (November 1977), amended LR 4:509 (December 1978).

### §1713. Security Manual

Each affected agency should prepare a security manual which delineates procedures for granting clearances for access to criminal history information as well as areas where criminal history data is maintained. Each person working with or having access to this information should know the contents of the manual.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 3:454 (November 1977), amended LR 4:509 (December 1978).

**§1715. Sanctions**

The management of each affected agency should establish sanctions for accidental or intentional violation of system security standards. Supervisory personnel should be delegated adequate authority and responsibility to enforce these standards.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

**HISTORICAL NOTE:** Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 3:454 (November 1977), amended LR 4:509 (December 1978).

**§1717. Disciplinary Measures**

Any violation of the provisions of these standards by any employee or officer of any public agency, in addition to any applicable criminal or civil penalties, shall be punished by the imposition of appropriate disciplinary measures.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

**HISTORICAL NOTE:** Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 3:454 (November 1977), amended LR 4:509 (December 1978).

**§1719. Willful or Repeated Violation**

Where any affected agency is found by the Louisiana Privacy and Security Committee to have willfully or repeatedly violated the requirements of his standard, the committee may prohibit the dissemination of criminal history record information to that agency for such periods and such conditions as the committee deems appropriate.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

**HISTORICAL NOTE:** Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 3:454 (November 1977), amended LR 4:509 (December 1978).

**§1721. Terminal Use**

There shall be a terminal identification code number for each remote terminal as a precondition for entering the files. Within each agency, terminal use shall be assigned to a limited and identified group of individuals. Each individual terminal user shall identify himself by a personal identification number or authorization code. The computer shall be programmed to log the identity of all users, the files accessed, and the date of access. This information shall be maintained for 12 months. (See Chapter 13.) Each remote terminal user shall establish a computerized or written log of terminal use, which shall be audited periodically.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

**HISTORICAL NOTE:** Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 3:454 (November 1977), amended LR 4:509 (December 1978).

**§1723. Data Control**

Where a computer file may be accessed by more than one agency, system software shall ensure that each agency shall obtain only the data to which it is entitled. System hardware and software shall contain controls to ensure that each user with on-line direct terminal access can obtain only reports authorized for its use. System software shall be implemented to erase and clear core, buffers, mass storage, and peripheral equipment of data automatically whenever purging is required by these regulations. Duplicate computer files shall be created as a countermeasure for destruction of original files and all computer tapes or discs shall be locked in a safe storage area under the control of senior personnel. Secondary storage should be used for backup.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

**HISTORICAL NOTE:** Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 3:454 (November 1977), amended LR 4:509 (December 1978).

**§1725. Data Center**

Where criminal justice data is transmitted to a data center on reporting forms, the center shall establish procedures for destroying these forms after the data is entered in the computer. System software shall contain controls to ensure that each terminal is limited to the information it can input, modify, or cancel.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

**HISTORICAL NOTE:** Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 3:454 (November 1977), amended LR 4:509 (December 1978).

**§1727. Monitor Program**

A monitor program shall be developed to report attempts to violate the system security software or files. Edit programs shall be created to periodically audit record alteration transactions.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

**HISTORICAL NOTE:** Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 3:454 (November 1977), amended LR 4:509 (December 1978).

## **Chapter 19. Segregation of Computerized Files and Their Linkage to Intelligence Files**

**§1901. Purpose**

It is the purpose of this regulation to establish minimum standards governing the maintenance of the security and integrity of computerized criminal history record information.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

**HISTORICAL NOTE:** Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 3:454 (November 1977), amended LR 4:509 (December 1978).

### **§1903. Supervision of Data Files and Programs**

Data files and programs used by the criminal justice system for the collection, maintenance or dissemination of criminal history record information shall be under the management control of a criminal justice agency and shall be supervised and maintained in the following manner.

1. Files shall be stored on the computer in such a manner that they cannot be modified, destroyed, accessed, changed, or overlaid in any fashion by noncriminal justice terminals.

2. The agency employee in charge of computer operations shall write and install, or cause to have written and installed, a program that will prohibit inquiry, file updates or destruction from any terminal other than criminal justice system terminals which are so designated. The destruction of files shall be limited to specifically designated terminals under the management control of the criminal justice agency responsible for maintaining the files.

3. The agency employee in charge of computer operations shall write and install, or cause to have written and installed, a classified program to detect and store for classified output all accesses and all attempts to penetrate and all accesses of any criminal offender record information system, program, or file. This program shall be available only to the agency control employee and his immediate assistant and the records of such program shall be kept continuously under maximum security conditions. No other persons, including staff and repair personnel, shall be permitted to know this program.

4. Nonterminal access to criminal offender record information such as requests for tapes, file dumps, printouts, etc., shall be permitted only with approval of the criminal justice agency having management control of the data. The employee in charge of computer operations shall forward all such requests to the criminal justice agency employee responsible for maintaining systems and data security.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

**HISTORICAL NOTE:** Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 3:454 (November 1977), amended LR 4:509 (December 1978).

### **§1905. Intelligence Inquiry**

Criminal history record files may be linked to intelligence files in such a manner that an intelligence inquiry from a criminal justice terminal can trigger a printout of the subject's criminal offender record information.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

**HISTORICAL NOTE:** Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 3:455 (November 1977), amended LR 4:510 (December 1978).

### **§1907. Response Information**

A criminal history record inquiry response shall not include information which indicates that an intelligence file exists.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

**HISTORICAL NOTE:** Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 3:455 (November 1977), amended LR 4:510 (December 1978).

## **Chapter 21. Training of System Personnel**

### **§2101. Purpose**

It is the purpose of this regulation to establish a training program whereby all personnel working with or having access to criminal history record information are made familiar with the substance and intent of the Louisiana privacy and security regulations.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

**HISTORICAL NOTE:** Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 3:455 (November 1977), amended LR 4:510 (December 1978).

### **§2103. Louisiana Criminal Justice Information System**

The Louisiana Criminal Justice Information System shall be primarily responsible for planning, coordinating, presenting, and approving the privacy and security training programs. The objective of the training program shall be to instruct key employees of affected agencies as to the substance and intent of the Louisiana privacy and security regulations. Every affected agency shall, to the maximum extent possible, avail itself of such training as may be provided by LCJIS.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

**HISTORICAL NOTE:** Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 3:455 (November 1977), amended LR 4:510 (December 1978).

### **§2105. Internal Training Program**

Every affected agency shall institute an internal training program to familiarize personnel with the proper use and control of criminal history record information. Each such program must contain provisions for specific instructional sessions on Louisiana privacy and security regulation Chapter 17 which establishes minimum security standards for criminal history record information. This training program would be primarily directed to employees who work with or have access to criminal history record information.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 3:455 (November 1977), amended LR 4:510 (December 1978).

**§2107. Record of Training Procedures**

Each affected agency shall maintain a written record describing the training procedures employed by the agency

and indicating the number of training meetings per year. This record shall be made available to LCJIS staff audit personnel during scheduled annual audits.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 3:455 (November 1977), amended LR 4:510 (December 1978).



## **Title 22**

### **CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT**

#### **Part III. Commission on Law Enforcement and Administration of Criminal Justice**

##### **Subpart 2. Minimum Jail Standards**

###### **Chapter 25. Introductory Information**

###### **§2501. Adoption**

The Louisiana Commission on Law Enforcement and Administration of Criminal Justice has adopted jail standards for the state of Louisiana at a meeting held Wednesday, September 24, 1980.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

**HISTORICAL NOTE:** Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 6:598 (October 1980).

###### **§2503. Introduction**

The purpose of these standards is to provide a reasonable guideline for use by persons responsible for the planning, administration and construction of parish jails in Louisiana. They are intended to reflect the minimum requirements which comply with court orders and protect the guaranteed rights of inmates in custody. The criteria were derived from court decisions, Louisiana state statutes, codes and regulations, and standards developed by organizations in the criminal justice field. The items generally avoid specific numerical absolutes so as to be useful to jails of all sizes and populations.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

**HISTORICAL NOTE:** Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 6:598 (October 1980).

###### **Chapter 27. Minimum Jail Standards**

###### **§2701. Management**

A. The administrator shall formulate a written statement of institution goals and purposes.

B. The administrator shall develop a written manual describing institution policies and procedures.

C. Inmates shall not be subject to discrimination on basis of race, religion, sex, nationality or handicap, and shall receive equal treatment under all policies and procedures of the institution.

D. The administrator shall formulate a written statement of policy regulating communications with the news media and promoting positive public relations with the community.

E. Space and equipment shall be designated for all necessary administrative functions.

F. Space and equipment shall be designated for all heads of the security staff.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

**HISTORICAL NOTE:** Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 6:598 (October 1980).

###### **§2703. Fiscal**

A. A fiscal system shall be established to record all income and expenditures in accordance with commonly accepted professional accounting practice.

B. An annual budget shall be prepared which projects the operating needs of the institution.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

**HISTORICAL NOTE:** Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 6:598 (October 1980).

###### **§2705. Records**

A. A record system shall be established to provide continuous, accurate, and current information on the location and legal status of all inmates.

B. A record system shall be established to account for inmate money and personal property with disbursement only upon authorization of the inmate owner.

C. A record system shall be established to provide statistical information required by legitimate law enforcement and correctional interests at the federal, state and local level.

D. A record system shall be established for all routine activities occurring on each shift and for all emergency situations.

E. A record system shall be established for all management functions of the institution, including administration, personnel operations and physical plant.

F. A log shall be kept of all persons entering or leaving the jail.

G. All record systems shall specify method and frequency of supervisory review, and such reviews shall be made as indicated.

H. Inmates shall be forbidden to handle any management, personnel, inmate, fiscal or other institutional records.

I. Secure space shall be provided for the use of current records and the storage of other records required in this Section.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

**HISTORICAL NOTE:** Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 6:598 (October 1980).

### **§2707. Personnel and Training**

A. Employees shall be given a written manual describing all personnel policies and procedures, including grievance and appeal mechanisms.

B. Employees and job applicants shall have the protection of equal employment opportunities.

C. Duties and qualifications for each employee position shall be described in writing by the administrator.

D. Employee records shall be maintained in individual files, but employees shall have the right to view and challenge their file information.

E. Employees shall receive preservice orientation and shall participate in regular inservice and staff development programs.

F. Space and equipment shall be provided for all training and staff development programs.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

**HISTORICAL NOTE:** Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 6:598 (October 1980).

### **§2709. Community**

A. The administrator shall develop a program of community resources to assist inmates during incarceration and facilitate their reentry after release.

B. Civilian volunteers shall not work in the institution until they have completed orientation appropriate to their assignments.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

**HISTORICAL NOTE:** Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 6:598 (October 1980).

## **Chapter 29. Inmate Support**

### **§2901. Inmate Housing**

A. Separation shall be provided between areas housing male and female inmates and between adults and juveniles.

B. Renovation of existing space or new construction shall provide a minimum of 48 square feet of floor space for each inmate confined for more than 72 hours.

C. New construction shall provide a view of daylight from each housing area.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

**HISTORICAL NOTE:** Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 6:598 (October 1980), amended LR 17:661 (July 1991).

### **§2903. Food Service**

A. Food service areas, equipment and operations shall meet all state and local health laws and regulations.

B. Inmates shall receive at least three meals every 24 hour period with no more than 14 hours between any two meals. At least two of these meals shall be hot.

C. Nutrition, food service plan, and daily menus shall be approved by a licensed physician, certified dietician or nutritionist.

D. Inmates shall be provided with special diets as ordered by the physician and approved by the administrator.

E. Inmates assigned to food service jobs shall be medically screened and certified free from disease prior to starting work.

F. Space shall be provided for all food preparation and service activities.

G. Inmates who are not segregated because of security, safety or discipline shall not be fed in their cells.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

**HISTORICAL NOTE:** Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 6:598 (October 1980).

### **§2905. Clothing and Bedding**

A. Indigent inmates shall be provided with all needed clothing at institution expense.

B. Inmates shall be provided with any clothing required for special jobs or work assignments at institution expense.

C. Inmates shall be provided with a minimum of two changes of clean clothing per week.

D. Inmates shall be provided with a complete set of clean linen and bedding on admission to the institution, and at least once a week thereafter.

E. Sanitary storage areas shall be provided for all inmate clothing, linen and bedding.

F. Arrangements shall be made for laundry and distribution of clean clothing and bedding to inmates.

G. Arrangements shall be made for disinfecting mattresses, pillows and mattress covers prior to issuance to inmates.

H. All clothing and bedding distributed by the institution shall be in good repair.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

**HISTORICAL NOTE:** Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 6:599 (October 1980).

### **§2907. Personal Hygiene**

A. Inmates shall have access to a shower on a daily basis and shall be required to bathe no less than twice a week.



B. Inmates shall be given all necessary personal health care items upon admission, and these items shall be replenished as needed.

C. Inmates shall be able to shave and receive haircuts on a regular basis.

D. Inmates assigned to food service or other work details shall shower and receive a complete change of appropriate clothing daily.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 6:599 (October 1980).

### **§2909. Medical and Health Care**

A. A licensed physician shall be responsible for the health care program and for the practice of medicine in the institution, and no restrictions shall be placed on the medical judgement of the physician.

B. All health care shall be provided in accordance with written policies and procedures developed by the physician in charge and endorsed by the administrator.

C. Dental care shall be provided under the direction, supervision and written procedures of a licensed dentist.

D. Treatment given by other than a licensed physician shall be made by trained personnel according to written, standing or direct orders of the physician in charge.

E. Inmates shall have continuous access to emergency health care by trained personnel and professional medical attention whenever required.

F. Inmates shall have access to routine health care by a physician within 48 hours after making such request.

G. At least one employee on each shift shall be qualified to administer basic first aid and cardiopulmonary resuscitation.

H. Arrestees will be asked at the time of booking about their current state of health and medications being taken, and health problems will be referred immediately to the physician.

I. New inmates shall receive a medical examination within 72 hours of admission to the institution.

J. Inmates shall receive a medical examination at least every 12 months while incarcerated.

K. New inmates shall be instructed in the procedure for obtaining routine and emergency medical attention at the time they are admitted to the institution.

L. Inmates shall be able to report illness or health complaints daily and all reports shall be recorded together with complaint disposition.

M. Pharmaceuticals shall be controlled and dispensed only under written orders and procedures prepared by the physician in charge, and shall be filled at institution expense as prescribed within 24 hours.

N. Inmates shall not participate in experimental testing programs for medical or pharmaceutical purposes unless specifically ordered to provide therapy for individual conditions.

O. An area shall be provided for inmates requiring isolation for reasons of physical or mental illness.

P. Space, equipment, supplies and material shall be provided for all health services delivered in the facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 6:599 (October 1980).

## **Chapter 31. Inmate Service**

### **§3101. Court Access**

A. Inmates may receive visits from attorneys or attorney-delegates at any reasonable time between wake-up and lights-out.

B. Inmate communications, with attorneys by telephone or personal visit shall be entirely confidential.

C. Inmate correspondence with attorneys shall be entirely confidential and shall not be delayed, read, nor interfered with in any manner.

D. Paralegals may be required to show evidence of their employment by an attorney before being admitted to visit with an inmate.

E. Inmates shall be permitted to present any issue to the courts at any time without restrictions, reprisal or penalty.

F. Inmates shall be able to obtain paper, postage, forms, notarial services, technical information and specific legal materials needed to insure their rights to court access.

G. Inmates shall be transported to any scheduled court appearance at the designated time at institution expense.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 6:599 (October 1980).

### **§3103. Visiting**

A. Inmates shall have maximum freedom and duration for visiting consistent with the security and management needs of the institution.

B. Each inmate shall be permitted a minimum of one personal visiting period per week.

C. Visitors shall be notified by posted signs that they and their possessions are subject to search at any time within the security perimeter of the institution.

D. Visitors shall register before admission and may be denied admission for refusal to register, for refusal to consent to search, or for any violation of posted institutional rules.

E. Inmate visits shall be conducted under visual surveillance of security staff, but conversations with visitors shall not be monitored.

F. Space shall be provided for all activities required by the visiting program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 6:599 (October 1980).

### **§3105. Mail**

A. Outgoing letters from inmates will be submitted unsealed and may be inspected and censored by the institutions.

B. An outgoing letter from an inmate may be disapproved if it falls into any of the following categories:

1. it contains threats of physical harm against any person or threats of criminal activity;
2. it threatens blackmail or extortion;
3. it concerns transport of contraband in or out of the institution;
4. it contains plans for escape;
5. it concerns plans for activities which violate institution rules;
6. it concerns plans for criminal activities;
7. it is in code and its contents are not understood by the reader;
8. it solicits gifts or goods or money from other than family;
9. it contains information which if communicated would create clear and present danger of violence or physical harm to a human being.

C. If an inmate is prohibited from sending a letter, he will be given back the letter with a written and signed notice citing the specific reason for disapproval and indicating the portion or portions of the letter involved.

D. Incoming letters to inmates may be inspected and censored by the institution in accordance with procedures in this Section.

E. An incoming letter may be disapproved only for reasons listed in A and B above.

F. If an inmate is prohibited from receiving a letter, the letter will be returned to the sender with a written notice citing the specific reason for the refusal, and the inmate will be notified of the rejection, the reason, and the name of the sender.

G. Outgoing letters to courts, recognized attorneys at law, governmental agencies and elected officials shall not be opened or read unless for security reasons, and will be submitted sealed by the inmate with the title or position of the addressee clearly marked on the envelope.

H. Incoming letters from courts, recognized attorneys at law, governmental agencies and elected officials may be opened for inspection, but only in the presence of the inmate recipient and without being read for content.

I. The administration shall establish a written procedure for inmate grievances involving mail, including method for written complaint, formal hearing, and written notice of complaint disposition.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 6:599 (October 1980).

### **§3107. Telephone**

A. Inmates shall have reasonable access to telephones on a regular schedule.

B. Inmates shall be permitted to complete two local telephone calls at institution expense immediately after arrest, or two collect long distance calls if they are not local residents.

C. Inmates shall have maximum freedom and duration of telephone privileges consistent with the security and management needs of the institution.

D. Inmate telephone calls shall be confidential and shall not be monitored.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 6:600 (October 1980).

### **§3109. Religion**

A. Inmates shall be permitted to attend religious services of their own denominations.

B. Inmates shall not be sanctioned or rewarded for attendance at religious services or be required to be present during any service.

C. Inmates in all conditions of detention shall have access to confidential consultation with religious advisors at any reasonable time.

D. Space shall be provided for religious services and programs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 6:600 (October 1980).

### **§3111. Recreation**

A. Inmates shall have active outdoor recreation at least one hour per day three days per week where possible.

B. Inmates shall be provided with some form of indoor recreational activity on a daily basis.

C. Space and equipment and supplies for recreation shall be furnished by the institutions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 6:600 (October 1980).

### **§3113. Work Programs**

A. Inmate work assignments shall be made impartially according to a plan and subject to the number and type of work opportunities available.

B. Unsented inmates shall be required to do only personal housekeeping.

C. Sentenced inmates shall be required to do only personal housekeeping and such other tasks as necessary for facility maintenance.

D. Inmates may receive pay and/or diminution of sentence for work performed, as permitted by statute.

E. Inmate work income shall be considered personal property of inmate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 6:600 (October 1980).

### **§3115. Education**

A. Sentenced inmates who wish to advance their general education through the high school level shall be provided the means to do so.

B. Sentenced inmates who wish to take correspondence or special courses at their own expense shall be permitted to do so if no specific security problems are involved.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 6:600 (October 1980).

### **§3117. Commissary**

A. Inmates shall have access to commissary or canteen services where they can purchase approved items not furnished by the institution.

B. Commissary items shall not cost more than standard community retail prices, and all sales records shall be audited regularly by an approved agency.

C. Sufficient and appropriate space shall be provided for commissary services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 6:600 (October 1980).

## **Chapter 33. Inmate Management**

### **§3301. Intake Reception**

A. No person who is unconscious, seriously injured, or violently disturbed shall be received for booking without written authorization from a licensed physician.

B. New arrivals shall be processed according to written intake procedures and shall be held separate from the inmate population until completion of these procedures.

C. New arrivals shall be given a written itemized receipt for all personal property taken from them at time of admission.

D. Inmates shall be provided an opportunity to consult with bailbonding and pretrial release agencies as soon as the booking process is completed.

E. New arrivals shall receive written and oral information about facility rules, procedures, programs and policies, and shall have access to a translator if English is not understood.

F. New arrivals may be housed in individual intake holding cells for a maximum of 48 hours before being classified and transferred to an appropriate housing area.

G. Special holding provisions shall be made for persons requiring detoxification, additional safety measures and isolation.

H. New and renovated holding cells shall house no more than eight inmates and provide a minimum of 30 square feet of floor space per person.

I. Single occupancy intake holding cells shall have a floor area of at least 50 square feet.

J. Space shall be provided for all booking and intake areas and functions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 6:600 (October 1980).

### **§3303. Classification**

A. Inmate housing, programs, work assignments and transfers shall be made on the basis of impartial written classifications procedures, and inmates shall be informed of the reasons for these decisions.

B. Classification shall separate males from females, adults from juveniles, and inmates with special problems of health, behavior or vulnerability from the general population.

C. Initial classification assignments shall be completed according to the written schedule within 48 hours of admission.

D. The classification process shall be completed within 72 hours.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

**HISTORICAL NOTE:** Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 6:600 (October 1980).

### **§3305. Supervision and Control**

A. Inmate supervision shall be conducted by trained correctional officers, and inmates shall never be placed in positions of control or supervision over other inmates.

B. Supervision of inmates by opposite sex staff shall be conducted according to written procedures. Supervision of female inmates in their housing areas shall be done by female officers at all times.

C. Inmates shall be logged in and out when they enter or leave the security perimeter of the institution for any reason.

D. Inmates shall be accounted for by roll call at least once every shift and by head count at various times during each shift.

E. Inmates may be involuntarily confined in their cells a maximum of 12 hours in any 24 hour period except as required for security reasons.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

**HISTORICAL NOTE:** Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 6:600 (October 1980).

### **§3307. Inmate Safety**

A. Inmates shall have continuous access to communications from their housing areas to a manned control station containing emergency and alarm capability.

B. New inmates shall be instructed how to obtain immediate assistance in case of illness, assault, or other personal emergency.

C. Secure housing arrangements shall be provided for inmates requiring protective custody under conditions equivalent to those of the general inmate population.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

**HISTORICAL NOTE:** Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 6:600 (October 1980).

### **§3309. Discipline**

A. New inmates shall be given written rules of conduct specifying prohibited acts and penalties which may be imposed for both major and minor rule violations, and this information shall also be posted in the institution.

B. Inmates shall not be subjected to corporal punishment or personal abuse, or confined in instruments of restraint as punishment.

C. Inmates shall not be deprived of food, clothing or personal hygiene items as punishment.

D. Inmates shall have impartial access to formal hearing and appeals procedures for any disciplinary action.

E. Inmates who must be isolated for disciplinary reasons shall be held in conditions of confinement equivalent to those of the general population.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

**HISTORICAL NOTE:** Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 6:601 (October 1980).

### **§3311. Grievance and Appeal**

A. Inmates shall have the right to report grievances verbally or in writing to any official of state or local government without fear of reprisal.

B. Inmates shall be informed of a formal written procedure for reporting and referring grievances and making appeals.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

**HISTORICAL NOTE:** Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 6:601 (October 1980).

### **§3313. Transportation**

A. Vehicles used to transport prisoners shall meet state and local safety standards and shall be operated only by properly licensed personnel.

B. Inmates shall be transported only in accordance with written procedures and only by officers who have received special training in this duty.

C. Female inmates shall be accompanied by a female officer during transport.

D. A secure area shall be provided for transfer of prisoners and goods between the institution and transporting vehicles.

E. Inmates shall not be restrained during transport more than necessary to insure security, and shall never be shackled to a vehicle or left unattended in a vehicle.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

**HISTORICAL NOTE:** Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 6:601 (October 1980).

### **§3315. Release**

Inmates shall not be released from the institution until legal authority and positive identification have been verified.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

**HISTORICAL NOTE:** Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 6:601 (October 1980).

## **Chapter 35. Security and Control**

### **§3501. Keys**

A. Written policy and procedure shall govern the regular inspection and maintenance of locks and keys.

B. Written policy and procedure shall govern the issue, use, control, loss and replacement of all keys.

C. A locked secure area shall be provided for all keys not in use and for a full set of duplicate keys to all parts of the facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 6:601 (October 1980).

### **§3503. Control Center**

Every institution shall provide a control center manned 24 hours, to monitor and control communications, emergency systems and security.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 6:601 (October 1980).

### **§3505. Contraband**

A. Items legally defined as contraband shall be identified in a list to be made available to all inmates, employees and visitors, together with regulations for disposal.

B. A list of articles approved for inmates will be identified and all other items will be considered unacceptable and disposed of according to written procedures.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 6:601 (October 1980).

### **§3507. Emergencies**

A. The institution shall comply with all provisions of state and local fire, safety and other applicable codes and regulations.

B. The institution shall develop written emergency procedures to cover escapes, riots, fires, passive resistance, other disturbances and disasters, and emergency evacuation of inmates.

C. Officers who work in direct contact with inmates shall have access at all times to an emergency communication system link with central control.

D. Diagrams shall be posted throughout the building showing evacuation routes, and instructions for use of emergency equipment shall be posted near the equipment.

E. All employees shall be instructed in emergency procedures, and senior watch officers shall have access to complete emergency plans at all times.

F. Hardware systems must permit the release of all inmates from a housing area within a maximum of five minutes in an emergency.

G. Emergency exit keys shall be marked to insure ready identification under conditions of smoke, poor visibility or other crisis situations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 6:601 (October 1980).

### **§3509. Searches**

A. Searches of inmate living areas shall be conducted according to written policies and procedures, avoiding damage or destruction to personal property.

B. Contraband items removed during area searches shall be logged, and a receipt shall be given to the inmate if requested.

C. Body searches shall be conducted only when an inmate has traveled or has had contact with persons outside the security perimeter of the institution, or when probable cause can be documented.

D. Visual body searches shall be conducted by trained personnel of the same sex as the inmate and shall avoid force, undue embarrassment or indignity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 6:601 (October 1980).

### **§3511. Hardware**

A. Each area within the facility shall be designated for a certain level of security, and appropriate hardware shall be provided to insure that level.

B. Each opening in the exterior security perimeter of the facility shall contain hardware appropriate to contain safely the inmate population, and to permit controlled access by legitimate public and law enforcement personnel.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 6:601 (October 1980).

## **Chapter 37. Building and Construction**

### **§3701. Planning and Site**

All jail facilities shall conform to state and local codes and regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 6:601 (October 1980).

**§3703. Sanitation and Maintenance**

A. The institution shall comply with the health and sanitation codes of the state and with all local laws and regulations.

B. The institution shall maintain records of all authorized inspections made by regulatory agencies, and of all actions taken as a result of these inspections.

C. The institution shall develop and implement a plan for the maintenance and housekeeping of the entire physical plant.

D. The institution shall provide for control of vermin and pests by a specialist and shall remove inmates from areas during treatment if requested by the physician in charge.

E. Sanitation and housekeeping shall be the responsibility of the institution even when inmates are assigned to housekeeping and maintenance tasks.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 6:601 (October 1980).

**§3705. Institution Storage**

Storage shall be provided for all equipment and supplies for the functions of the institutions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 6:601 (October 1980).

**§3707. Climate Control**

A. Temperature and humidity ranges in the institution shall be checked and approved by the state health officer.

B. All equipment used for heating, ventilating and air-conditioning shall comply with state and local codes and regulations.

C. Ventilation systems shall be designed for kitchens, toilets, showers and laundry rooms and for the removal of chemical agents where they may be used.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 6:601 (October 1980).

**§3709. Lighting and Power**

A. All electrical wiring shall comply with state and local codes and regulations.

B. Facilities shall have two independent sources of power, each sufficient to maintain minimum vital services during an emergency.

C. Illumination in housing areas shall be sufficient to permit reading, and shall be reduced to a level to permit normal sleep during night hours.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 6:602 (October 1980).

**§3711. Mechanical and Plumbing**

A. All water supply, sewerage and plumbing installations shall comply with state and local codes and regulations.

B. Inmate housing areas shall have hot and cold potable water supplied to each lavatory and shower fixture.

C. Water supplies to kitchen and laundry equipment shall meet the temperature and volume recommended by state and local codes and regulations.

D. All inmate occupied areas shall be provided with positive floor drainage.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 6:602 (October 1980).

## **Title 22**

### **CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT**

#### **Part III. Commission on Law Enforcement and Administration of Criminal Justice**

##### **Subpart 3. State Grant-in-Aid Program**

### **Chapter 41. Procedures**

#### **§4101. Review**

All state grant-in-aid juvenile projects must be reviewed first by the Juvenile Justice and Delinquency Prevention (JJDP) Advisory Board prior to review by the Louisiana Commission on Law Enforcement (LCLE).

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

**HISTORICAL NOTE:** Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 8:63 (February 1982), amended LR 11:252 (March 1985).

#### **§4103. Applications**

Applications received at the Louisiana Commission on Law Enforcement on or before the fifteenth of the month shall be presented to the commission at the meeting in the following month.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

**HISTORICAL NOTE:** Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 8:63 (February 1982), amended LR 11:252 (March 1985).

#### **§4105. Funding**

Funding for equipment grants will be made on the basis of a signed purchase order or dated invoice submitted by the grantee.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

**HISTORICAL NOTE:** Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 8:64 (February 1982), amended LR 11:252 (March 1985).

#### **§4107. Training Payments**

Payment from the region for training shall be on a reimbursement basis subject to state travel regulations. All other subgrants shall be made on a quarterly draw-down basis.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

**HISTORICAL NOTE:** Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 8:64 (February 1982), amended LR 11:252 (March 1985).

#### **§4109. Unawarded Funds**

All funds unawarded by the February commission meeting shall be reviewed by the Louisiana Commission on Law Enforcement for redistribution.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

**HISTORICAL NOTE:** Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 8:64 (February 1982), amended LR 11:252 (March 1985).

#### **§4111. Local Block Training Funds**

Local councils may permit local block training funds to be used to reimburse meals and travel expenses incurred while attending basic training.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

**HISTORICAL NOTE:** Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 11:252 (March 1985).

#### **§4113. Subgrants**

Any subgrant to a single agency in excess of \$3,000 made from regional block training funds, excluding basic training, must be approved by the Louisiana Commission on Law Enforcement.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

**HISTORICAL NOTE:** Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 8:64 (February 1982), amended LR 11:252 (March 1985).

### **Chapter 43. Appeals Procedure**

#### **§4301. Appeals Procedure**

A. When an application for funding is rejected by the commission, or when an approved subgrant is discontinued, the applicant or subgrantees may appeal the decision of the commission by filing a notice of appeal with the Louisiana Commission on Law Enforcement at the recognized business address (1885 Wooddale Boulevard, Room 610, Baton Rouge, LA 70806). The notice of appeal must be certified mail and must be filed no later than 15 business days after receipt of the notice of denial by the applicant or subgrantee.

B. Upon receipt of the notice of appeal by the LCLE, the executive director will notify the commission that an appeal hearing will be held on the date of the next regularly scheduled commission meeting. The priorities committee will hear the appeal and make recommendations to the

commission. The executive director shall designate the time and place of the meeting, and a copy of the notice shall be sent to the applicant or subgrantee.

C. On the date of the next regularly scheduled commission meeting, the priorities committee shall meet and hear evidence by the applicant or subgrantee relative to reasons the appeal should be granted. The applicant or subgrantee may present as many witnesses as may be necessary to support his appeal, except that the committee chairman may limit the number or time allotted to the witnesses where necessary. The secretary to the commission shall take minutes of the appeal hearing and the entire hearing shall be recorded. The committee may also request other evidence relating to the application or project.

D. At the conclusion of the hearing, the committee shall present its findings and make recommendations to the commission.

E. A vote shall then be taken on the appeal.

F. In the event the appeal is denied, the applicant or subgrantee may, within 15 days of the date of denial, file with the Office of the Governor and the Louisiana Commission on Law Enforcement, a notice of appeal to the governor. The notice of appeal must be by certified mail.

G. Upon receipt of the notice of appeal to the governor, the Louisiana Commission on Law Enforcement shall have 15 days to provide the applicant or subgrantee and the governor with the minutes of the appeal hearing and a copy of the vote of the commission. The recorded tapes shall also be made available to the governor at his request.

H. The results of the appeal to the governor shall be communicated to the Louisiana Commission on Law Enforcement within 20 days.

I. Nothing herein shall preclude the resubmission of an application through the use of regular Louisiana Commission on Law Enforcement procedures.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

**HISTORICAL NOTE:** Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 8:64 (February 1982), amended LR 11:252 (March 1985).

## Chapter 45. Guidelines

### §4501. Approval

All grants must be approved by the Louisiana Commission on Law Enforcement (LCLE).

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

**HISTORICAL NOTE:** Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 8:63 (February 1982), amended LR 11:253 (March 1985).

### §4503. Traffic-Related Grants

No traffic-related grants will be eligible, with the exception of driving while intoxicated (DWI) and substance abuse related projects.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

**HISTORICAL NOTE:** Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 8:63 (February 1982), amended LR 11:253 (March 1985).

### §4505. Local Criminal Justice Agencies

Local criminal justice agencies are the only eligible grantees (including private non-profit agencies involved in juvenile delinquency prevention or other specific crime problems). State agencies are ineligible for participation.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

**HISTORICAL NOTE:** Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 8:63 (February 1982), amended LR 11:253 (March 1985).

### §4507. Personnel Costs

Personnel costs are limited to full-time personnel. Supplanting of personnel is prohibited.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

**HISTORICAL NOTE:** Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 8:63 (February 1982), amended LR 11:253 (March 1985).

### §4509. Indirect Costs

Indirect costs are ineligible expenditures.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

**HISTORICAL NOTE:** Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 8:63 (February 1982), amended LR 11:253 (March 1985).

### §4511. Regional Planning Units and Criminal Justice Coordinating Councils

No state grant-in-aid funds may be used for project evaluation or for the expenses of Regional Planning Units (RPU's) or Criminal Justice Coordinating Councils (CJCC's).

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

**HISTORICAL NOTE:** Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 8:63 (February 1982), amended LR 11:253 (March 1985).

### §4513. Funding Restrictions

There is a general restriction prohibiting the funding of the following items:



1. All mobile vehicles (automobiles, vans, airplanes, boats, etc.), gasoline, tires, automobile repair and maintenance, insurance, uniforms, leather and accessories, maintenance of aforementioned equipment and uniforms, firearms and ammunition. (Wadcutter ammunition for training purposes will be considered on a case-by-case basis.)

2. No automobile accessories will be allowed except radio equipment.

3. All office equipment and furniture: desks, typewriters, file cabinets, chairs, tables, credenzas, lamps, etc.

4. Solely recreation programs and recreational equipment are ineligible for funding in the juvenile area.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 8:63 (February 1982), amended LR 11:253 (March 1985).

#### **§4515. Renovation**

Renovation will be limited to a maximum of \$25,000 in grant funds. Renovation will be allowable only on agency-owned or long-term lease (minimum five years) facilities. Funds may not be used to purchase real property.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 8:63 (February 1982), amended LR 11:253 (March 1985).

#### **§4517. Private, Non-Profit Agencies**

Private, non-profit agencies, with the exception of RPU's, will be required to have a current surety bond equal to the amount of the grant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 8:63 (February 1982), amended LR 11:253 (March 1985).

#### **§4519. Consultants and Contracts**

Consultants and contracts will be limited to research development and training programs. Consultants may not be used to perform services ordinarily accomplished by existing personnel. Consultant contracts and agreements must receive approval from LCLE, prior to release of funds.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 8:63 (February 1982), amended LR 11:253 (March 1985).

#### **§4521. No-Cost Technical Assistance**

Consultant services which are available as no-cost technical assistance will not be eligible for funding.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 8:63 (February 1982), amended LR 11:253 (March 1985).

#### **§4523. Confidential Funds**

Use of confidential funds are subject to rules and regulations established by the Louisiana Commission on Law Enforcement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 8:63 (February 1982), amended LR 11:253 (March 1985).

#### **§4525. Reimbursement for Basic Training Tuition**

State reimbursement for basic training tuition shall not exceed \$400 per person certified by Peace Officer Standards and Training (POST). (Requires successful completion.) Reimbursement shall be limited to tuition cost only. (No travel, lodging and meals.)

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 8:64 (February 1982), amended LR 11:253 (March 1985).

#### **§4527. Universities**

No university (or any certified academy) receiving direct state appropriations for law enforcement training shall be eligible for training funds under this program, with the exception of jailer training.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 8:64 (February 1982), amended LR 11:253 (March 1985).

#### **§4529. Agency on Peace Officer Standards and Training (POST) Council Notice**

No agency on official notice by the Louisiana POST Council of non-compliance with state basic training mandates shall be eligible for participation in the state Grant-in-Aid (GIA) Program, except basic training reimbursement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 8:64 (February 1982), amended LR 11:253 (March 1985).

**§4531. Eligibility**

To be eligible for participation in the state GIA Program, local criminal justice agencies will be required to comply with requests for information mandated by the Louisiana Commission on Law Enforcement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 8:64 (February 1982), amended LR 11:253 (March 1985).

**§4533. Travel Expenses**

All travel expenses will be based on state travel regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 8:64 (February 1982), amended LR 11:253 (March 1985).

**§4535. Lobbying**

Grant funds shall not be used for lobbying activities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 8:64 (February 1982), amended LR 11:253 (March 1985).

**§4537. Politically Oriented Material**

Politically oriented material (brochures, leaflets, films, etc.) are prohibited for payment from grant funds.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 8:64 (February 1982), amended LR 11:253 (March 1985).

**§4539. Child Abuse/Neglect Projects**

Child abuse and/or child neglect projects or components thereof are ineligible for funding except for criminal justice agencies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 8:64 (February 1982), amended LR 11:253 (March 1985).

**§4541. Computers**

Need for computer purchase must be documented and receive prior approval of the LCLE.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 8:64 (February 1982), amended LR 11:253 (March 1985).

**§4543. Requirement Analysis**

A "requirement analysis" documenting the need for computer software and/or hardware, must accompany the application and receive prior approval.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 8:64 (February 1982), amended LR 11:253 (March 1985).

## Title 22

### CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT

#### Part III. Commission on Law Enforcement and Administration of Criminal Justice

##### Subpart 4. Peace Officers

### Chapter 47. Standards and Training

#### §4701. Definitions

A. The following terms, as used in these regulations, shall have the following meanings.

*Law Enforcement Training Course*—A basic or advanced course of study certified by the Council on Peace Officer Standards and Training (POST), for the purpose of educating and training persons in the skills and techniques of a peace officer in the discharge of his duties.

*Peace Officer*—Any full-time employee of the state, a municipality, a sheriff or other public agency, whose permanent duties actually include the making of arrests, the performing of searches and seizures, or the execution of criminal warrants, and is responsible for the prevention or detection of crime or for the enforcement of the penal, traffic, highway laws of this state, but not including any elected or appointed head of a law enforcement department. Peace officer also includes those sheriff's deputies whose duties include the care, custody and control of inmates.

*Training Center*—Any POST accredited school, academy, institute, or any place of learning whatsoever, which offers or conducts a law enforcement or corrections training course.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 13:434 (August 1987), amended LR 25:662 (April 1999).

#### §4703. Basic Certification

A. All full-time peace officers, as defined in R.S. 40:2402, shall complete a basic training course as prescribed and certified by the Council on Peace Officers Standards and Training (POST Council). Reserve or part-time officers or military police officers stationed in Louisiana may be eligible for certification if they successfully complete a basic training course prescribed for full-time peace officers and pass the POST statewide examination. There are three levels of POST certification.

1. Level 1 Certification for Basic Law Enforcement Peace Officers

a. The student will complete a training course with a minimum of 320 hours for full certification. Level 1 certification requires that the student meet the POST requirements for firearm certification.

2. Level 2 Certification for Basic Correctional Peace Officer

a. The student will complete a training course with a minimum of 218 hours and is limited to those peace officers whose duties are the care, custody, and control of inmates. The training course consists of the ACA core curriculum plus a sufficient number of hours to obtain POST certification. POST Firearm certification for Level 2 students is optional.

3. Level 3 Certification for Jailer Training Officers

a. The student will complete a training course with a minimum of 90 hours and is limited to those correctional officers whose duties are the care, custody, and control of inmates. This course consists of the ACA core correctional officer curriculum. POST Firearm certification for Level 3 students is not required.

B. Students shall adhere to all standards, rules and regulations established by the accredited training center. Certification will not be awarded to students who are physically unable to complete every aspect of the basic training course. A student may not be certified for successful completion if:

1. the student's excused absences exceed 10 percent of the total hours of instruction;

2. the student fails to achieve a passing grade of 70 percent or higher on each block of instruction;

3. the student fails to achieve a grade of 80 percent or higher on the requirements for firearm certification;

4. all aspects of the training course have not been successfully completed.

C. Students shall be required to pass the POST statewide written examination for peace officers as prescribed by state law. Seventy percent shall constitute a passing score. In the event a student fails the examination, one retest may be administered if the agency head so desires. The student must wait a minimum of fifteen working days before the retest can be administered with a maximum time limit of thirty working days. If said student fails the retest, the student shall be required to complete another basic training course and satisfy all POST requirements to obtain certification. Oral testing on the statewide examination is prohibited.

D. To maintain firearm certification, an officer shall be required to requalify yearly on the POST firearms qualification course, demonstrating at least 80 percent proficiency. Scores shall be computed and verified by a

firearms instructor certified by the POST Council. If the period between qualifying exceeds 18 months for any reason, the officer will be required to complete a basic firearms course at an accredited training center, unless the officer had been in the military for more than three years and was exercising his veteran reemployment rights.

E. When a basic student injures themselves during a basic training course, the student must have the nature of the injury immediately documented. Should the injury later prevent the student from being tested on a basic training course requirement, then upon written request of the agency head, the student will have eight weeks from the time of the medical release to take and pass those course requirements, unless the time between the academy graduation and medical release exceeds a one year period. In that case, the student will be required to complete another basic training course.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 13:434 (August 1987), amended LR 25:663 (April 1999).

#### **§4705. Registration of Officers**

A. Registration may be granted in lieu of certification to those officers who were hired prior to January 1, 1986, who did not attend POST-certified basic training.

B. Officers hired prior to January 1, 1986, may be eligible to receive POST registration by completing the following requirements.

1. A letter from the agency head shall be submitted to the POST Council indicating a desire to have the officer registered with the state;

2. Documentation shall accompany the letter regarding initial employment date and continuous law enforcement service on a form prescribed by POST.

3. POST registration shall not apply to reserve/auxiliary officers.

4. Registration is granted in lieu of certification to full-time officers, and shall not apply to reserve or part time officers. POST certification is only granted to those individuals who successfully meet all requirements of POST:

a. completion of a basic training course, examination, etc.;

b. registration simply means that the full-time officer is *registered* with POST and he/she is not required to comply with the mandates for basic POST certification;

c. they are exempt from basic training course (i.e., *grandfathered in*), but must comply with all other POST mandates to maintain grandfathership;

d. grandfathership/registration shall become invalid if officer experiences a three-year break in full-time law enforcement service.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 13:434 (August 1987), amended LR 25:663 (April 1999).

#### **§4707. Out-of-State Transfers**

A. Out-of-state-transfers shall be eligible for certification by meeting the following criteria at an accredited training center:

1. present a currently valid out-of-state POST certificate. Training applicants transferring from out-of-state who are not certified will not be recognized by POST;

2. must be a full-time employed peace officer and not a part-time, reserve, or auxiliary officer;

3. successfully complete ALegal Aspects@ Section of the *Louisiana Law Enforcement Basic Training Manual*, (40 minimum hours);

4. successfully complete AFirearms@ Section of the *Louisiana Law Enforcement Training Manual*, (40 minimum hours);

5. pass the statewide examination for peace officers with a minimum score of 70 percent; if failed, the student must complete a full basic training course.

B. Out-of-state transfers with less than a 320 hour basic training course are required to complete an entire POST basic training course.

C. Out-of-state transfers who have attended APre-service@ training in another state shall be required to meet the same POST requirements as basic recruit officers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 13:434 (August 1987), amended LR 25:664 (April 1999).

#### **§4709. Interruption of Full-Time Service**

A. Any peace officer hired prior to January 1, 1986 who interrupts his full-time law enforcement service for a period in excess of three years and is thereafter rehired, shall be required to meet the basic training requirements for new peace officers. However, if such officer has already completed a POST certified basic training course, he shall be required to complete the Legal Aspects and firearms portion of the course, qualify on the POST firearms qualification course, and pass the statewide examination, all at an accredited training center. Proof of basic training will be required. If the student fails the statewide examination, the student must complete a full basic training course.

B. Any officer hired after January, 1986 who interrupts his full-time law enforcement service for a period in excess of three years and is thereafter rehired, shall be required to meet the requirements outlined in §4709.A.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 13:434 (August 1987), amended LR 25:664 (April 1999).

#### **§4711. Firearms Qualification**

##### **A. Basic Firearms Qualification**

1. On a 25-yard range equipped with B-27 silhouette targets, the student, given a pistol or revolver, holster and 240 rounds of ammunition, will fire the POST firearms qualification course at least four times. Scores must be averaged and the student must:

- a. fire all courses in the required stage time;
- b. use the correct body position for each course of fire;
- c. fire the entire course using double action only, except in the case of single action only semi-automatic pistols;
- d. fire no more than the specified number of rounds per stage;
- e. fire each course at a distance not appreciably lessor nor greater than that specified;
- f. achieve an average score of not less than 225 out of a possible 300 points, which is 75 percent or above;
- g. have all targets graded and final score computed by a POST-certified firearms instructor.

##### **B. Annual Requalification**

1. The requirements for annual requalification are the same as for basic qualification, with one exception. If the fire-arms qualification course must be fired more than once, the scores shall be averaged as designated in basic firearms qualification.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 13:435 (August 1987).

#### **§4713. POST Firearms Qualification Course**

A. Stage One. At the 25-yard line, student will fire six rounds right-hand barricade standing and six rounds right-hand barricade kneeling, in sixty seconds.

B. Stage Two. At the 25-yard line, student will fire six rounds left-hand barricade standing and six rounds left-hand barricade kneeling, in sixty seconds.

C. Stage Three. At the seven-yard line, student will fire 12 rounds, point shooting, in 25 seconds.

D. Stage Four. At the four-yard line, student will fire three rounds, one-hand hip shooting, in three seconds. Student will hold, and not reholster. Again, student will fire three rounds in three seconds.

E. Stage Five. At the four-yard line, student will fire three rounds, one or two-hand hip shooting, in three seconds. Student will hold, and not reholster. Again, student will fire three rounds in three seconds,

F. Stage Six. At the two-yard line, one-hand close quarters, student will fire two rounds in two seconds. Student will hold and not reholster. This is repeated twice.

G. Stage Seven. Repeat stage six.

H. On ranges where 15 yards is maximum target distance, a B29 target will be utilized when the course above calls for a distance of 25 yards. At other distances, the B-27 will be utilized. The entire course is fired with a hot line, meaning the officer shall automatically reload as soon as his weapon is empty.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 13:435 (August 1987).

#### **§4715. Instructor Qualifications**

A. Full-time academy instructors must meet the following minimum qualifications:

1. shall possess at least 60 semester hours college or may substitute practical experience in law enforcement and/or corrections as listed in A.2;
2. each two years full-time experience may be substituted for each 30 semester hours of college. Any combination of above will be acceptable;
3. shall have completed the instructor development course conducted by the Federal Bureau of Investigation. If the course is not available within Louisiana within one year, POST may waive this requirement until such time as a course becomes available;
4. shall have completed at least two years full-time practical experience in law enforcement and/or corrections field, which must be over and above any experience used as a substitute for college.

B. Specialized instructors for defensive tactics, firearms, and corrections shall meet the following qualifications:

1. shall be a full-time employee of a public criminal justice agency with at least two years full-time continuous, practical law enforcement experience, and pertain to firearms, defensive tactics, and corrections instructors;
2. shall have recommendation of an academy director or agency head;
3. shall successfully complete all aspects of specialized instructor school as presented by POST and the Federal Bureau of Investigation (FBI) (except for Defensive Tactics Instructors);
4. shall attend POST-sponsored instructor retrainers as required by POST.

C. Special guest instructors shall meet the following qualifications:

1. shall have advanced knowledge or expertise in the area in which they are instructing;
2. shall not certify students in defensive tactics, firearms or corrections fields.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 13:434 (August 1987), amended LR 25:664 (April 1999).

#### **§4721. Firearms Qualification**

##### **A. Pre-Academy Firearms Training**

1. Any person employed or commissioned as a peace officer, or reserve or part-time peace officer must successfully complete a pre-academy firearms training program as prescribed by the council within 30 days from the date of initial employment if that person will be performing the duties of a peace officer before attending a basic law enforcement training course.

##### **B. Pre-Academy and Basic Firearms Qualification**

1. Students shall qualify with an approved service weapon on the POST-approved Firearms Qualification Course and all scoring will be computed and recorded by a firearms instructor certified by the POST Council.

a. During a pre-academy training program, a student who fails may be given retests. Any person who fails shall be prohibited from exercising the authority of a peace officer until they have successfully completed the course. However, such persons shall not be prohibited from performing administrative duties.

b. During a basic law enforcement training course, it shall be left to the discretion of the training center director whether a student who fails to qualify on the POST Qualification Course will be given retests. However, if retests are given, the scores will be averaged in accordance with POST regulations and must be completed before the academy class graduates.

2. On a twenty-five (25) yard range equipped with POST-approved P-1 targets, the student, given a pistol or revolver, holster and 240 rounds of ammunition, will fire the POST firearms qualification at least four (4) times. Scores must be averaged and the student must:

- a. fire all courses in the required stage time;
- b. use the correct body position for each course of fire;
- c. fire the entire course using double action only, except in the case of single action only semi-automatic pistols;
- d. fire no more than the specified number of rounds per stage;

e. fire each course at a distance no appreciably less nor greater than that specified.

f. achieve an average score of not less than 96 out of a possible 120 which is 80 percent or above. The score shall be computed as follows:  $\text{Score 1} + \text{Score 2} + \text{Score 3} + \text{Score 4} = \text{Qualifying Score (divided by) the number of attempts.}$

g. all stages of fire must be fired in the manner specified.

3. All targets will be graded and final scores computed by a POST-certified Firearms Instructor.

##### **C. Annual Requalification**

1. The POST firearms requirements for annual requalification are the same as for basic qualification with one exception. If the POST Fire-arms qualification course must be fired more than once, the scores shall be averaged as designated in basic firearms qualification.

2. All targets will be graded and final scores computed by a POST-certified Firearms Instructor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 13:343 (August 1987), amended LR 25:664 (April 1999).

#### **§4723. POST Firearms Qualification Course**

##### **A. Stage One**

1. At the 25-yard line, the student will fire six rounds strong hand barricade standing, six rounds, strong hand, barricade kneeling, and six rounds, strong hand or off hand barricade, standing, offside, barricade in ninety seconds. Movement to the barricade is required to a maximum distance of 5 yards.

##### **B. Stage Two**

1. At the seven-yard line, the student will fire 12 rounds, standing in 25 seconds, with mandatory reloading for all weapons after first six rounds; 6 rounds kneeling in 10 seconds, and 6 rounds off-hand only in 8 seconds.

##### **C. Stage Three**

1. At the four-yard line, student will fire three rounds, one-or two-hands, instinct shooting position from holster, in three seconds, and three rounds, one-or two hands, instinct shooting position from ready-gun position, in three seconds. This is repeated once.

##### **D. Stage Four**

1. At the two-yard line, one or two hands close quarter shooting position from holster, the student will fire two rounds in two seconds. This is repeated twice. During the shooting, the student is required to move one step to the rear.

E. The entire POST firearms qualification course is fired with a hot line, meaning the officer shall automatically reload as soon as his weapon is empty.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 13:434 (August 1987), amended LR 25:665 (April 1999).

#### **§4731. Revocation of Certification**

A. All law enforcement agencies and correctional agencies and institutions within the State of Louisiana shall immediately report the conviction of any POST certified full-time, reserve, or part-time peace officer to the council.

B. Any offense which results in the individual peace officer's restriction of his/her constitutional right to bear arms shall be grounds for immediate revocation. The revocation of any certification is effective immediately when the council receives a certified copy of a court's judgment and issues notice to the peace officer. Notice of the revocation shall be sent via certified US mail to the peace officer and the officer's employing agency.

C. All criminal convictions involving a peace officer shall be directed to the council's attention for potential revocation hearings. The council shall review each criminal conviction and conduct hearings on each reported conviction.

D. The chairman of the council shall designate a revocation committee to review potential peace officer revocations and report any findings to the next council meeting. The revocation committee shall consist of:

1. a police chief;
2. a sheriff;
3. a district attorney;

4. the Superintendent of State Police; and
5. the Attorney General or his designee.

E. Any hearings conducted by the council or the revocation committee shall be conducted according to guidelines established by the council.

F. Any peace officer whose certification has been revoked by the Council may file an appeal under the provisions of the Administrative Procedure Act under R.S. 49:964.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, amended LR 25:665 (April 1999).

#### **§4741. Training Centers**

A. Each training center will be subject to a comprehensive performance review by the council once every four years.

B. Each training center will be monitored at least annually to ensure compliance with the council's training standards.

C. Each training center shall transmit to the POST Council a schedule of POST certifiable training being conducted. The training schedule shall be submitted no later than the Friday preceding the date on which the training is to be conducted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, amended LR 25:666 (April 1999).





## **Title 22**

### **CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT**

#### **Part III. Commission on Law Enforcement and Administration of Criminal Justice**

##### **Subpart 5. Crime Victim Assistance**

### **Chapter 49. Policies and Procedures**

#### **§4901. Eligibility for Funding**

A. Priority will be given to programs serving victims of sexual assault, spousal abuse, and child abuse and underserved populations, not to include sexual assault, spousal abuse and child abuse programs.

B. The state of Louisiana must allocate at least 10 percent of the total crime victims assistance funds granted to the state to each of the three priority categories plus 10 percent to previously underserved populations not to include sexual assault, spousal abuse and child abuse programs.

C. Crime Victim Assistance (CVA) funds will be distributed on a formula basis to each of the state's eight districts. The other funds administered by the Louisiana Commission on Law Enforcement (Juvenile Justice and Delinquency Prevention, State Grant-in-Aid, Training, Anti-Drug Abuse Act) all utilize this formula.

D. An eligible crime victim program must:

1. be operated by a public agency or non-profit organization, or a combination thereof, that provides service to crime victims;

2. promote within the community served coordinated public and private efforts to aid crime victims. Program must demonstrate (in its application) that it will coordinate its activities with other service providers in the community so that the best interests of the crime victim are served and interagency communication enhanced;

3. assist victims in seeking available crime victim compensation benefits by running at least one paid ad in local newspapers. The ad should reference sheriffs as the contact point, the subgrantee. and the Louisiana Commission on Law Enforcement (LCLE) as funding source. Grant funds may be used for this purpose. Media advertisements must address only direct services to crime victims, and how to access them. This is not to exceed two percent of grant funds. An eligible program must demonstrate that it will coordinate its activities with the state compensation program.

4. Victims should be encouraged by subgrantees to cooperate with and contact local law enforcement agencies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 15:1071 (December 1989).

#### **§4903. Application Requirements**

A. All applications submitted for CVA funds shall be reviewed by the CVA Advisory Board and submitted to the full commission for approval or disapproval. Local level applications must have local council approval. Documentation of approval must accompany application to state office.

B. Application must include the original A-95 Review for Federal Assistance form. This form must have a state clearinghouse identifier number assigned to it before it is submitted. Have original signature on all documents (no copies).

C. Include as a separate part of the budget narrative, your agency's current operating budget. Include the dollar amount for each source of funding. If your agency provides other non-victim services (sheriff's department, YWCA recreational programs, etc.), include only that part of the budget directly related to victim services.

D. Application must include a federal tax identification number (agency's). Place in Box 6 of application. No funds will be released until this number is submitted.

E. Match is required for crime victims assistance funds.

1. If the program is an existing program, has a record of providing effective services to victims of crime, and has financial support from other services, the enhancement or expansion of services will require a 20 percent match (includes in-kind contributions). The enhancement or expansion can request 80 percent of program costs from CVA funds.

2. If a new program is applying for funds, one that has not yet demonstrated a record of effective services, the proposed program budget must provide a 35 percent hard cash or in-kind match.

F. Application must include a statement in the budget narrative that explains budget items stating if match is in-kind or cash. Specify source, amount, and method of derivation of match. If volunteers are used as match, limit the hourly rate to \$5. Have documentation on file listing name of volunteer, number of hours contributed, date of volunteer hours. In-kind match must not be incorporated into individual budget categories on page 2 of the application; cash match must be incorporated into the individual budget categories on page 2. In-kind match should be explained on a separate page. The statement also must include the source of cash or in-kind match.

G Each program must utilize volunteers in some capacity.

H. Application must contain what duties and functions are performed by volunteers. Indicate number of volunteer hours per duty/function for this application (estimate). If volunteers are used as match, duties must directly relate to the focus of the program.

I. Include the total number of hours of training provided to volunteer and salaried victim assistance staff who deliver direct services to crime victims. Include only training whose function is to develop skills of direct service providers in working with crime victims.

J. Application must include the total number of hours of training presented by program staff to other disciplines, e.g. police, mental health, social services. Include only training to people who provide direct service to victim, not public awareness/information training.

Include the total number of hours contributed by paid and volunteer staff (full time - unpaid staff who deliver direct services to crime victims).

K. Application must indicate how applicant has/will coordinate their activities with other criminal justice system/private service providers in the community. Letters of support indicating awareness of and cooperation with applicant agency and/or written cooperative agreements would satisfy this requirement and must be submitted with the application.

L. Application must include a specific plan how agency has or will interface with the Louisiana Crime Victims Reparations Program. Keep data on number of referrals to program. amount received by each victim referred.

#### M. Personnel

1. Salary rates to be comparable with salaries of similar jobs in region served by the project.

2. Supplanting not permitted. Grant funds are intended to enhance or expand services, not substitute for other sources of support.

3. Percentage of time which person(s) devote to project must be shown.

4. Job Description (in grant materials) to be provided for each funded position.

5. Qualifications - education/work experience to be provided for each position.

a. Qualifications to meet those established for the particular position and/or comparable to existing positions in funded grants.

b. Qualifications to be at minimum level to perform duties described and in line with salary rate established.

6. Retroactive pay increases not approvable.

7. No dual compensation permitted.

8. Time/attendance records to be maintained on current basis.

#### N. Fringe Benefits

1. Apply only to those salaries funded in grant.

2. Types:

a. Social Security (F.I.C.A.), 1989 - 7.51 percent;

b. public retirement;

c. health/life insurance;

d. workman's compensation;

e. private retirement plan.

3. Only one bona fide retirement plan is eligible.

4. Fringe benefits not to exceed 25 percent of the total salary.

5. In the absence of fringe benefits budgeted when grant personnel are shown, these benefits to be supported with local funds. Documentation to this effect must be included in the Budget Narrative portion of the application.

#### O. Travel

1. State travel regulations prevail in all grants (may be below, but not exceed state levels).

a. LodgingC\$40 plus tax; \$55 plus tax (New Orleans).

b. MealsC\$18 (\$4-\$5-\$9); New OrleansC\$26 (\$5-\$7-\$14)Ctime constraints determine eligibility.

c. MileageC21 cents per mile.

2. Travel is a reimbursable expenditure for actual travel, not a flat allowance.

3. Amount of funds budgeted for travel to be in line with project duration, scope of travel required, etc.

4. Travel expenditures restricted to persons in grant. (training exempted)

5. Travel reimbursement for mileage not allowable in public vehicle where gas, operating expenses are provided by agency.

6. Questions will be asked when travel is required in the project, but no travel funds are budgeted.

7. Travel funds budgeted need to be detailed, type of expense; where travel is to: out-of-state, etc., not in a lump sum.

8. Note: Oil and gas are not travel expenditures, these are other direct costs.

#### P. Equipment

1. Distinguish between equipment and supplies; i.e. depreciable, life of at least three years.

2. Reimbursement for equipment to be evidenced by invoice (preferably) or purchase order, payment will not be processed unless these are submitted with request.

Purchase(s) must be made within grant period (invoice date must reflect this).

3. Competitive procurement must be utilized, special condition will be imposed on all grants.

4. Cost of equipment to be reviewed in terms of cost effectiveness.

5. Items of equipment to be reviewed in terms of project needs and justification.

6. Equipment to be listed by item and unit cost for each item.

7. The following equipment items cannot be purchased or leased with Crime Victims Assistance funds: vehicles, police automobile radios, walkie talkies, computers, word processors, typewriters, copy machines, and/or calculators.

8. Office furniture is limited to the following and is not to exceed \$700: desk, chair(s), file cabinet.

9. Telephone purchased with CVA funds shall be limited to standard models.

10. Audio-visual equipment limited to \$1,000 per program.

11. All equipment must be tagged and proper inventory controls established.

12. No equipment may be disposed of (sold, destroyed, given away) without state office approval.

#### Q. Supplies

1. distinguish between supplies and equipment;

2. uniforms are not eligible for funding;

3. types of supplies:

a. office supplies Cpaper, pencils; etc.

b. training supplies Cbooks, manuals, audio-visual aids, films (if cost is less than \$250; if over \$250, place in equipment category); etc.

c. other supplies as may be related to project;

d. postage.

4. lump sum amounts for supplies not acceptable Cmajor categories must be itemized by unit cost;

5. supplies to be related to functions of project;

6. supplies to be consumed generally during grant period;

7. amount budgeted for supplies to be reviewed in relation to total funds budgeted; re: cost effectiveness;

8. films, audio-visuals, books, periodicals, bulletins - titles to be shown;

9. office supplies limited to \$500 per program.

#### R. Contractual Services

1. Consultants' rate Cnot to exceed \$150 for eight-hour day (\$18.75 per hour [M-7100-1985]).

2. Competitive procurement for sole source when \$10,000 and over (must send to Washington, D.C. for approval).

3. Contractual agreement review by LCLE with approval prior to drawdown of funds Cspecial condition on grants:

a. review of consultants' qualifications;

b. review of prior comparable types of work performed agency names, etc., date;

c. rates paid for prior comparable work performed;

d. references.

4. Contractual agreement to contain description of work to be performed.

#### S. Other Direct Costs

1. Types:

a. gas and oil for vehicles;

b. audit costs;

c. printing. All printed material must bear a prominent statement to the effect that it was printed with Crime Victims Assistance funds obtained through a grant from Louisiana Commission on Law Enforcement;

d. meeting room rentals Conly for training direct service workers;

e. utilities;

f. rent. The subgrantee must certify in writing that the requested rental charge is consistent with the prevailing rate in the local area and shall maintain documentation in its file to support such a determination.

2. Service contracts and insurance coverage Creview to insure that these cover only expenditures during grant period; i.e. three-year service contract to be paid from grant with duration of only 12 months not eligible.

3. Rent charges, (M-7100-1985).

a. Not to exceed \$10 per square foot. (\$12.50 when maintenance and operation provided).

b. Rental space requirements not to exceed 150 square feet per employee.

c. Rental cannot be charged if subgrantee owns the building.

#### T. Indirect Costs. Not allowable with CVA funds.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 15:1072 (December 1989).

#### **§4905. Application Requirements**

A. Any training must meet the standards and curriculum requirements of the Peace Officer Standards and Training (POST) Council.

B. Audit. Each applicant must comply with Office of Management and Budget (OMB) Circular A 128 or OMB Circular A 110, Attachment F, as appropriate. Grant funds up to 15 percent may be used for the audit.

C. Each applicant must agree to the reporting requirements established by the commission.

D. Legal fees are only allowable when staff salaried medical/legal/mental health professionals are hired to provide on-site services to clients or are hired on a contractual basis to provide these services.

E. Landlord/tenant relations programs are not allowable.

F. Funds to pay private security guards or private escort services are not allowable.

G. Renovation and construction costs are not allowable.

H. Funds may not be used to pay for radio or television ads.

I. Subgrantee must comply with all guidelines contained in the Federal Register. Vol. 50, Number 205. Oct. 23, 1985; Vol. 52, Number 62. April 1, 1987 and Vol. 54. Number 95, May 18, 1989.

J. Training is eligible for funding for those persons (salaried or volunteer staff) who provide direct services to crime victims. Funds may only be used for training programs that improve the skills of service providers in meeting the needs of crime victims. Management training and training aimed at persons who do not provide direct services are not eligible for support.

K. Expenses must be in accordance with Louisiana State Travel Regulations. Costs are permitted only for travel within the state and comparable geographic region.

L. Only individuals who provide direct services to victims are eligible to receive funds for training and will only be reimbursed for 50 percent of expenditures for training expenses. Expenses related to the Louisiana Foundation Against Sexual Assault (LAFASA) and the Louisiana Coalition Against Domestic Violence (LCADV) meetings are not an eligible expense. A clear audit trail for expenditures must be kept available for review by auditors.

M. In-service training. Payment of trainer will be reimbursed at 100 percent providing training is direct service training to staff or volunteers. A copy of the training curriculum must be provided with the application.

N. Travel and per diem for trainer shall be eligible for 100 percent reimbursement.

O. CVA funds may not be used solely to support a training activity or program. (No subgrants will be granted solely for the purpose of supporting a trainer or training activity.)

P. All requests for charges to subgrants related to travel, per diem, and conference fees must be submitted to LCLE and will be carefully reviewed before approval. Justification must be provided with training program description and brochures.

Q. All subgrantees with private, non-profit status are required to obtain a surety bond in the amount of the federal funds requested. Those private, non-profit subgrantees who have previously received at least one year CVA funding and who have demonstrated good performance, i.e., completing progress reports, fiscal reports, and performance report information, will not be required to obtain a surety bond.

R. No diminished support policy is presently in effect, but the board will reserve the right to approve an application at a reduced level. This will take into account other projects requesting funding and the past ability of a subgrantee to appropriately expand its awarded funds. All applications will be considered from the standpoint of how they will become self-supporting and phase out the need for CVA funds. Exemplary projects will be considered at the full funding requested.

S. All applicant agencies must include in the application for subgrant a statement indicating how they will address the issue of encouraging the victims to report to law enforcement. This will include their policies and procedures. No application will be considered without this information.

T. The following special condition will be imposed on all applications: Subgrantee must comply with the Louisiana Child Protection Act (LRS 15:587.1) and any subsequent amendments to the Act as appropriate for their program. The application must indicate that the subgrantee will comply, as appropriate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 15:1074 (December 1989).

## **Title 22**

### **CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT**

#### **Part III. Commission on Law Enforcement and Administration of Criminal Justice**

##### **Subpart 6. Grant Applications or Subgrants Utilizing Federal, State or Self-Generated Funds**

### **Chapter 51. Appeals Procedure**

#### **§5101. Appeals Procedure**

A. When an application for funding is rejected by the commission, or when an approved subgrant is discontinued, the applicant or subgrantees may appeal the decision of the commission by filing a notice of appeal with the Louisiana Commission on Law Enforcement at the recognized business address (2121 Wooddale Boulevard, Room 6120, Baton Rouge, LA 70806). The notice of appeal must be by certified mail and must be filed no later than 15 business days after receipt of the notice of denial by the applicant or subgrantee.

B. Upon receipt of the notice of appeal by the LCLE, the executive director will notify the commission that an appeal hearing will be held on the date of the next regularly scheduled commission meeting. The Priorities Committee will hear the appeal and make recommendations to the commission. The executive director shall designate the time and place of the meetings, and a copy of the notice shall be sent to the applicant or subgrantee.

C. On the date of the next regularly scheduled commission meeting, the Priorities Committee shall meet and hear evidence by the applicant or subgrantee relative to reasons the appeal should be granted. The applicant or subgrantee may present as many witnesses as may be necessary to support his appeal, except that the committee chairman may limit the number or time allotted to the witnesses where necessary. The secretary to the commission shall take minutes of the appeal hearing and the entire hearing shall be recorded. The committee may also request other evidence relating to the application or project.

D. At the conclusion of the hearing, the committee shall present its findings and make recommendations to the commission.

E. A vote shall then be taken on the appeal.

F. In the event the appeal is denied, the applicant or subgrantee may, within 15 days of the date of denial, file with the Office of the Governor and the Louisiana Commission on Law Enforcement, a notice of appeal to the governor. The notice of appeal must be by certified mail.

G. Upon receipt of the notice of appeal to the governor, the Louisiana Commission on Law Enforcement shall have 15 days to provide the applicant or subgrantee and the

governor with the minutes of the appeal hearing and a copy of the vote of the commission. The recorded tapes shall also be made available to the governor at his request.

H. The results of the appeal to the governor shall be communicated to the Louisiana Commission on Law Enforcement within 20 days.

I. Nothing herein shall preclude the resubmission of an application through the use of regular Louisiana Commission on Law Enforcement procedures.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 15:1071 (December 1989).

### **Chapter 53. Drug Abuse Resistance Education (D.A.R.E.)**

#### **§5301. Introduction**

A. In response to the mounting concern about the use of drugs by youth, the Louisiana Commission on Law Enforcement will make Drug Abuse Resistance Education (D.A.R.E.) grants available to sheriffs' offices and police departments who can demonstrate the capacity to offer the D.A.R.E. program in accordance with the national model. The D.A.R.E. Program National Model is contained in the U.S. Department of Justice, Bureau of Justice Assistance Program Brief, entitled "An Invitation to Project D.A.R.E." Copies of this program brief are available by contacting the Louisiana Commission on Law Enforcement, 1885 Wooddale Boulevard, Suite 708, D.A.R.E. Unit, Baton Rouge, LA 70806.

B. D.A.R.E. is a substance abuse prevention program designed to equip school children with skills for resisting peer pressure to experiment with tobacco, drugs, and alcohol. This program uses uniformed law enforcement officers to teach a formal curriculum to students in a classroom setting. Law enforcement officers must become certified by completing the required D.A.R.E. training offered through a certified D.A.R.E. training center.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204.9.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 21:566 (June 1995).

## **Chapter 55. Uniform Crime Reporting System**

### **§5501. Funding Eligibility**

A. Effective January 1, 1998, law enforcement agencies that fail to participate in the state Uniform Crime Reporting System (UCR) or having been relieved of that obligation through certification as a Louisiana Incident Based Crime Reporting System (LIBRS) agency that fail to participate in the LIBRS program shall not be eligible for funding under any grant program administered by the Commission on Law Enforcement.

B. Any agency receiving funding to participate in the Louisiana Incident Based Crime Reporting System (LIBRS) that fails to participate in the system shall not be eligible for funding under any grant program administered by the Commission on Law Enforcement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204(9).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 24:936 (May 1998).

## Title 22

### CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT

#### Part III. Commission on Law Enforcement and Administration of Criminal Justice

##### Subpart 7. Asset Forfeiture

### Chapter 61. Code of Professional Conduct

#### §6101. Adoption

The Louisiana Commission on Law Enforcement and Administration of Criminal Justice has adopted a code of professional conduct for asset forfeiture at a meeting held Tuesday, December 2, 1997.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 24:935 (May 1998).

#### §6102. Introduction

The purpose of the *Code of Professional Conduct* is to establish ethical standards applicable to asset forfeiture programs throughout the state of Louisiana. These standards are similar to the *National Code of Professional Conduct for Asset Forfeiture*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 24:935 (May 1998).

#### §6103. Code of Professional Conduct

A. Law enforcement is the principal objective of forfeiture. Potential revenue must not be allowed to jeopardize the effective investigation and prosecution of criminal offenses, officer safety, the integrity of ongoing investigations, or the due process rights of citizens.

B. A prosecutor's or sworn law enforcement officer's employment or salary shall not be contingent upon the level of seizures or forfeitures he or she achieves.

C. Whenever practical, and in all cases involving real property, a judicial finding of probable cause shall be secured when property is seized for forfeiture. Seizing agencies shall strictly comply with all applicable legal requirements governing seizure practice and procedure.

D. A judicial finding of probable cause must be secured as provided by law.

E. Seizing entities shall have a manual detailing the statutory grounds for forfeiture and all applicable policies and procedures.

F. The manual shall include procedures for prompt notice to interest holders, the expeditious release of seized property where appropriate, and the prompt resolution of claims of innocent ownership.

G. All property forfeited must be sold at public sale, and the proceeds distributed according to law.

H. Unless otherwise provided by law, forfeiture proceeds shall be maintained in a separate fund or account subject to appropriate accounting controls and annual financial audits of all deposits and expenditures.

I. Seizing agencies shall strive to ensure that seized property is protected and its value preserved.

J. Seizing entities shall avoid any appearance of impropriety in the sale or acquisition of forfeited property.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 24:935 (May 1998).





# Title 22

## CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT

### Part V. Board of Pardons

#### Chapter 1. Applications

##### §101. General

A. Any completed application will be considered for hearing by the board on the first Tuesday of each month. Should the first Tuesday fall on a legal holiday, the board will meet the following Tuesday. The board shall also meet at the discretion of the chairman to transact such other business as deemed necessary.

B. Applications must be received in the Board of Pardons office by the fifteenth of the month to be placed on the docket for consideration the following month.

C. Four members of the board shall constitute a quorum for the transaction of business, and all actions of the board shall require the favorable vote of at least four members of the board.

D. Any offender sentenced to death shall submit an application within one year from the date of the direct appeal denial.

E. Any offender sentenced to life may not apply until he has served 15 years from the date of sentence, unless he has sufficient evidence which would have caused him to have been found not guilty.

F. No application will be considered by the board until it deems the application to be complete in accordance with the following rules and procedures in Chapter 1.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:572.1 and 15:572.4.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Pardons, LR 16:1062 (December 1990), amended LR 24:1132 (June 1998).

##### §103. Filing Procedure

###### A. All Applicants

1. Every application must be submitted on the form approved by the Board of Pardons and must contain the following information:

- a. name of applicant;
- b. prison number [Department of Corrections (DOC) number];
- c. date of birth;
- d. race/sex;
- e. education (highest grade completed);
- f. age at time of offense;
- g. present age;

- h. offender class;
- i. place of incarceration (incarcerated applicant only);
- j. parish of conviction/judicial district/court docket number;
- k. offense(s) charged, convicted of or plead to;
- l. parish where offense(s) committed;
- m. date of sentence;
- n. length of sentence;
- o. time served;
- p. prior parole and/or probation;
- q. when and how parole or probation completed;
- r. prior clemency hearing/recommendation/approval;
- s. reason for requesting clemency;
- t. relief requested and narrative detailing the events surrounding the offense;
- u. institutional disciplinary reports (incarcerated applicants only); total disciplinary reports, number within the last 12 months; nature and date of last violation; and custody status.

2. The application shall be signed and dated by applicant and shall contain a prison or mailing address and home address.

3. An application must be completed. If any required information does not apply, the response should be "NA."

B. In addition to the information submitted by application, the following required documents must be attached as they apply to each applicant:

1. Incarcerated Applicants. Any applicant presently confined in any institution must attach a current master prison record and time computation/jail credit worksheet and have the signature of a classification officer verifying the conduct of the applicant as set out in ' 103.A.1.u and a copy of conduct report. Applicants sentenced to death must attach proof of direct appeal denial.

2. Parolees. Applicants presently under parole supervision or who have completed parole supervision must attach a copy of their master prison record or parole certificate.

3. Probationers. Applicants presently under probation supervision or who have completed probationary period

must attach a certified copy of sentencing minutes or copy of automatic first offender pardon.

4. First Offender Pardons [R.S. 15:572 (B)]. Applicants who have received an Automatic First Offender Pardon must attach a copy of the Automatic First Offender Pardon.

C. No additional information or documents may be submitted until applicant has been notified that he/she will be given a hearing unless applicant has a life sentence and has served less than 15 years and has documentation proving innocence. The Board of Pardons will not be responsible for items submitted prior to notification that a hearing will be granted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:572.4.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Pardons, LR 16:1062 (December 1990), amended LR 24:1132 (June 1998).

### **§105. Discretionary Powers of the Board**

A.1. The Board of Pardons, at its discretion, may deny any applicant a hearing for any of the following reasons:

- a. serious nature of the offense;
- b. insufficient time served on sentence;
- c. insufficient time after release;
- d. proximity of parole/good time date;
- e. institutional disciplinary reports;
- f. probation/parole unsatisfactory/violated;
- g. past criminal record; or
- h. any other factor determined by the board.

2. However, nothing in Chapter 1 shall prevent the board from hearing any case.

B. Any applicant denied under Chapter 1 shall be notified, in writing, of the reason(s) for denial and thereafter may file a new application two years from date of the letter of denial. Any applicant with a life sentence denied after August 15, 1997 may reapply six years after the initial denial; three years after the subsequent denial; and every two years thereafter.

C. Any fraudulent documents or information submitted by applicant will result in an automatic denial by the board and no new application will be accepted until four years have elapsed from the date of letter of denial. Any lifer denied because of fraudulent documents may reapply 10 years from the date of letter of initial denial; seven years if subsequent denial; and six years for denials thereafter.

D. In any matters not specifically covered by LAC 22:V.Chapter 1, the board shall have discretionary powers to act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:572.4.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Pardons, LR 16:1062 (December 1990), amended LR 24:1133 (June 1998).

### **§107. Contact with the Board of Pardons**

A. Contact with the Board of Pardons or any member is prohibited except by appearing/testifying at a public hearing or by written letter addressed to the Board of Pardons.

B. If a board member is improperly contacted, he/she must immediately notify the individual that the contact is illegal. The letter must be accompanied by a copy of R.S.15:573.1, and the contact must be reported to the other board members.

C. Any prohibited contact after an individual has been informed of the prohibition as provided in ' 107.B shall be fined not more than \$500 or imprisoned for not more than six months or both.

D. All letters in favor of pardon, clemency, or commutation of sentence are subject to public inspection. Exceptions to ' 107 are:

1. letters from any victim of a crime committed by the applicant being considered for pardon, clemency, or commutation of sentence, or any person writing on behalf of the victim;

2. any letters written in opposition to pardon, clemency, or commutation of sentence.

E. All letters written by elected or appointed public officials in favor of or opposition to pardon, clemency, or commutation of sentence received after August 15, 1997 are subject to public inspection and shall be recorded in a central register maintained by the board. The register shall contain the name of the individual whose pardon, clemency, or commutation of sentence is subject of the letter, the name of the public official who is the author of the letter and the date the letter was received by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:573.1, 15:574.12 and 44:1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Pardons, LR 16:1062 (December 1990), amended LR 24:1133 (June 1998).

### **§109. Hearing Granted**

A. After notice to a applicant that a hearing has been granted the applicant must provide the Board of Pardons office with proof of advertisement within 90 days from the date of notice to grant a hearing. Advertisement must be published in the official journal of the parish where the offense occurred. This ad must state:

"I (applicant's name), (document number), (date of birth), currently residing in (parish/county), (state), have applied for clemency for my conviction for (crime) which occurred (day/month/year), in (parish/county), (state). If you have any comments or wish to communicate with the Board of Pardons please call (225) 342-5421."

B. Applicant may submit additional information, (e.g., letters of recommendation and copies of certificates of achievement and employment/residence agreement).

**AUTHORITY NOTE:** Promulgated in accordance with LSA-R.S. 15:572.4, 15:574.12 and 44:1 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Public Safety and Corrections, Board of Pardons, LR 16:1063 (December 1990), amended LR 26:88 (January 2000).

### **§111. Notice of Public Hearing Dates**

A. After receipt of all documents required by ' ' 103 and 109.A and the clemency investigation from the appropriate probation and parole district, the board shall set the matter for public hearing.

B. At least 30 days prior to public hearing date, the board shall give written notice of the date, time, and place to the following:

1. the district attorney and sheriff of the parish in which the applicant was convicted; and, in Orleans Parish, the superintendent of police;

2. the applicant;

3. the victim who has been physically or psychologically injured by the applicant (if convicted of that offense), and the victim's spouse or next of kin, unless the injured victim's spouse or next of kin advises the board, in writing, that such notification is not desired;

4. the spouse or next of kin of a deceased victim when the offender responsible for the death is the applicant (if convicted of that offense), unless the spouse or next of kin advises the board, in writing, that such notification is not desired;

5. the Crime Victims Services Bureau of the Department of Public Safety and Corrections; and

6. any other interested person who notifies the Board of Pardons, in writing, giving name and return address.

C. The district attorney, injured victim, spouse, or next of kin, and any other persons who desire to do so shall be given a reasonable opportunity to attend the hearing. The district attorney or his representative, victim, victim's family, and a victim advocacy group, may appear before the Board of Pardons by means of telephone communication from the office of the local district attorney.

D. Only three persons in favor, to include the applicant, and three in opposition, to include the victim/victim's family member, will be allowed to speak at the hearing. However, there is no limit on written correspondence in favor of and/or opposition to the applicant's request.

E. If an applicant is released from custody and/or supervision prior to public hearing date, the case will be closed without notice to the applicant. Applicant may reapply two years from the date of release.

F. Applicant's failure to attend and/or notify the Board of Pardons office of his/her inability to attend the hearing will result in an automatic denial. The applicant may reapply two years from the date of scheduled hearing. Lifers who fail to attend and/or advise of inability to attend may reapply in

six years if it is his/her initial hearing, three years if subsequent hearing date, and two years thereafter.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 15:572.4 and 15:574.12(G) and R.S. 44:1 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Public Safety and Correction, Board of Pardons, LR 16:1063 (December 1990), amended LR 24:1133 (June 1998).

### **§113. Denials by Board after Public Hearing**

A. The board shall notify the applicant of the denial. Applicant may submit a new application two years after the date of letter of denial. Any applicant serving life may apply six years after initial denial, three years after subsequent denial and thereafter every two years.

B. The board shall terminate hearing should the applicant become disorderly, threatening, or insolent. Any hearing terminated due to applicant's disorderly, threatening, or insolent behavior is an automatic denial and the applicant may reapply four years from the date of hearing except those serving life sentence who may reapply 10 years from the date of initial hearing termination, seven years from the subsequent hearing termination, and six years from hearing termination thereafter.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 15:572.4.

**HISTORICAL NOTE:** Promulgated by the Department of Public Safety and Corrections, Board of Pardons, LR 24:1134 (June 1998).

### **§115. Denial/No Action Taken by Governor after Favorable Recommendation**

A. The board shall notify the applicant after its receipt of notification that favorable recommendation was denied or no action was taken by the governor. Applicant may submit a new application one year from the date of the letter of denial or notice of no action.

B. An applicant who has been paroled, released under good time parole supervision, or released from sentence within one year of the date of letter of denial or notice of no action by the governor, may submit a new application two years after the date of release from confinement.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 15:572.4.

**HISTORICAL NOTE:** Promulgated by the Department of Public Safety and Corrections, Board of Pardons, LR 24:1134 (June 1998).

### **§117. Governor Grants**

The Office of the Governor will notify the applicant if any clemency is granted. Applicant may submit a new application for additional relief four years from the date of notice.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 15:572.4.

**HISTORICAL NOTE:** Promulgated by the Department of Public Safety and Corrections, Board of Pardons, LR 24:1134 (June 1998).



# Title 22

## CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT

### Part IX. Sentencing Commission

#### Subpart 1. Felony Sentencing Guidelines

#### Chapter 1. Purpose and Principles

##### §101. Purpose

A. The purpose of the Louisiana Sentencing Guidelines, hereinafter referred to as *Guidelines*, is to recommend a uniform sanctioning policy which is consistent, proportional, and fair for use by the Louisiana judiciary in felony cases in which the sentencing court must determine the sentence to be imposed.

B. The *Guidelines* do not apply to capital cases, cases punishable by a mandatory sentence of life imprisonment, or misdemeanor cases.

C. The *Guidelines* do not apply to convictions for felony offenses for which no crime seriousness level has been determined. In such cases, the court may be guided by the guideline range for a ranked offense which the court determines to be analogous to the offense of conviction.

D. The *Guidelines* are intended to ensure certainty, uniformity, consistency and proportionality of punishment, fairness to victims, and the protection of society.

E. The *Guidelines* are intended to provide rational and consistent criteria for imposing criminal sanctions in a uniform and proportionate manner.

1. Uniformity in sentencing requires that offenders who are similar with respect to relevant sentencing criteria should receive similar sanctions, and that offenders who are substantially different with respect to relevant sentencing criteria should receive different sanctions.

2. Proportionality in sentencing requires that the severity of the punishment be proportional to the seriousness of the offense of conviction and the severity of the offender's prior criminal history.

F. The *Guidelines* are intended to assist the court in stating for the record the considerations taken into account and the factual basis for imposing sentence.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:321-329.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, Louisiana Sentencing Commission, LR 18:44 (January 1992), repromulgated LR 18:165 (February 1992).

##### §103. Sentencing Principles

A. Sentences should be based primarily on the offense of conviction and the offender's prior criminal history. Therefore, those two factors determine the designated sentence range established under the *Guidelines*.

B. The determination of the seriousness of the offense of conviction is based on the elements of the offense of conviction.

C. The severity of sanctions should increase or decrease in proportion to the seriousness of the offense of conviction and the severity of the offender's prior criminal history.

D. The *Guidelines* are based on the typical case and the designated sentence ranges provided in the *Sentencing Guidelines Grid* should be appropriate for cases in which aggravating and mitigating circumstances are not present.

E. While commitment to a term of imprisonment with or without hard labor is the most severe non-capital sanction that can follow conviction for a felony offense, there are other significant sanctions available to the sentencing court which lawfully can be imposed in conjunction with, or independent of, a term of imprisonment. These criminal penalties include home incarceration, periodic incarceration, community service, and various conditions of supervised probation.

F. Sentences shall not be determined on the basis of the race, gender, social, or economic status of the offender. The exercise of constitutional rights by the defendant during the adjudication process is not a justification for the imposition of a more severe sentence than is warranted by the offense of conviction, criminal history of the offender, and any relevant mitigating and aggravating factors. However, acceptance of responsibility and cooperation with law enforcement, which may involve relinquishment of rights, may be considered as mitigating factors justifying imposition of a more lenient sentence.

G. Sanctions imposed shall not be excessive.

H. The sentencing judge should have broad discretion in the determination and imposition of appropriate sentencing alternatives in particular cases.

I. Reasons for the imposition of a particular sentence shall be set forth for the record to facilitate appellate review.

J. The *Guidelines* are advisory to the sentencing judge. No sentence shall be declared unlawful, inadequate, or excessive solely due to the failure of the judge to impose a sentence in conformity with the designated sentence range provided by the *Guidelines*.

K. In imposing sentence, the court shall consider the *Guidelines* in effect at the time of the guilty plea, plea of nolo contendere, or verdict of guilty.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:321-329.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, Louisiana Sentencing Commission, LR 18:45 (January 1992), repromulgated LR 18:165 (February 1992), amended LR 20:786 (July 1994).

## Chapter 2. Determining Sentences Under the Sentencing Guidelines

### §201. Sentencing Guidelines Grid

A. The basis for the sentence for any offender convicted of a felony is determined by locating the designated sentence range in the appropriate cell of the *Sentencing Guidelines Grid*, hereinafter referred to as the *Grid*. See Chapter 4, '403.A, Sentencing Guidelines Grid. The appropriate cell is determined by the crime seriousness level of the offense and the criminal history index of the offender.

B. In imposing a sentence under the *Guidelines*, the court shall state for the record the factors which led the court to determine that the cell in the *Grid* was appropriate. The court may refer to any pre-sentence investigation report or a sentencing guidelines report, if available, in stating for the record the factual basis for imposing sentence.

C. If the sentence imposed falls within the range of the appropriate cell of the *Grid*, the sentence is appropriate for purposes of the *Guidelines* and the court is not required to set forth additional factors justifying the selection of the particular sentence.

D. Sentences greater or lesser than a penalty within the designated sentence range should be determined through the procedures for departure. See '209, Departures from the Designated Sentence Range.

E. Use of mandatory minimum sentences, concurrent or consecutive sentences, and other sentencing considerations should be determined through the procedures set forth in the *Guidelines* or as otherwise provided by law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:321-329.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, Louisiana Sentencing Commission, LR 18:45 (January 1992), repromulgated LR 18:165 (February 1992).

### §203. Crime Seriousness Level

A. The crime seriousness level is determined by the offense of conviction.

B. Offenses are ranked according to the following:

1. the interest protected; and
2. the type and level of harm or threat of harm proscribed by statute.

C. The placement of an offense in a particular seriousness level is determined by the typical case for each offense.

D. Offenses listed within each level of seriousness are deemed to be generally equivalent in seriousness.

E. The seriousness level for the felony offenses for which a crime seriousness level has been determined are set forth by level in the Crime Seriousness Master Ranking List. See Chapter 4, '401.A, Crime Seriousness Master Ranking List. Felony offenses are classified into five categories of offenses which are subdivided into ten levels of seriousness ranging from high, level 0, to low, level 9, listed alphabetically within each level.

1. The five categories of felony offenses are Categories I, II, III, IV, and V. Category I offenses are levels 0 and 1; Category II offenses are levels 2 and 3; Category III offenses are levels 4 and 5; Category IV offenses are levels 6 and 7; and Category V offenses are levels 8 and 9.

2. All offenses with a mandatory life sentence are in Category I at level 0.

3. The crime seriousness level for Criminal Conspiracy (R.S. 14:26) is one level below the crime seriousness level of the completed offense contemplated by the conspiracy, unless the completed offense is level 9.

4. The crime seriousness level for Attempt (R.S. 14:27) is one level below the crime seriousness level of the completed offense attempted by the offender, unless the completed offense is level 9.

5. The crime seriousness level for Attempt (R.S. 14:27) or Conspiracy (R.S. 14:26) to commit an offense ranked at level 9 is also ranked at level 9.

6. The crime seriousness level for Inciting a Felony (R.S. 14:28) is level 7 regardless of the level of the incited felony.

7. The crime seriousness level for Accessory after the Fact (R.S. 14:25) is level 6 regardless of the level of the felony to which the offender is an accessory.

F. For the convenience of the courts, three additional ranking lists are provided which list the offenses by:

1. Louisiana Revised Statute Number;
2. Offense Name, alphabetically; and
3. Crime Family, as designated.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:321-329.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, Louisiana Sentencing Commission, LR 18:45 (January 1992), repromulgated LR 18:165 (February 1992).

### §205. Criminal History Index Classification System

A. The Criminal History Index Classification System, hereinafter referred to as the *criminal history index*, is the method of evaluating an offender's criminal history in a uniform and consistent manner. The criminal history index is used to reflect increased levels of culpability for offenders who have previously been convicted of offenses or adjudicated delinquent. The index is based on computational rules which result in the assignment of varying points for certain prior convictions or adjudications.

## B. Definitions

**Crime Family** Offenses which have been designated by the commission to be included within the same crime family based on similar interests protected and type of harm proscribed by the offenses. See Chapter 4, ' 402.D, Crime Family Table. Attempt, Criminal Conspiracy, Inciting a Felony, and Accessory After the Fact are considered to be in the same crime family as the completed offense or the offense to which the offender was an accessory. If a felony offense has not been designated to be included within a crime family, but the court determines that the offense is analogous to the offenses in a particular crime family, the court may treat that offense as included within the crime family for purposes of imposing sentence in a particular case. In such case, the court shall state for the record its reasons for finding that the offense was analogous to those of a particular crime family.

**Crime Free Time** A period of time during which the offender was not in a *custody status*, as defined below, and during which the offender has not committed an offense which subsequently results in a felony or misdemeanor conviction, as defined herein.

**Custody Status** Any form of criminal justice supervision resulting from a guilty plea, conviction, or an adjudication of delinquency including post conviction release or bail, confinement, probation, or parole.

**Felony Adjudication** Any unexpunged adjudication for delinquency by a court exercising juvenile jurisdiction:

- a. for the offense of first degree murder, second degree murder, manslaughter, aggravated rape, forcible rape, simple rape, sexual battery, aggravated kidnapping, or armed robbery; or
- b. for any felony offense if the defendant was under the age of 26 years at the time of the commission of the current offense; or
- c. for any felony offense if the defendant was 26 years of age or older at the time of the commission of the current offense and the defendant previously had been convicted as an adult of a felony or a misdemeanor in which an element involved the use of a dangerous weapon.

**Felony Conviction** For purposes of the *Guidelines*, means a conviction for an offense punishable by a sentence of death or imprisonment, with or without hard labor, in excess of one year at the time of conviction, under the laws of this state, any other state, the United States, or any foreign government or country.

**Misdemeanor Adjudication** Any unexpunged adjudication for delinquency by a court exercising juvenile jurisdiction for an offense which, if committed by an adult, would be a misdemeanor, as defined herein.

**Misdemeanor Conviction** For purposes of the *Guidelines*, means any other conviction which is counted in the computation of criminal history score.

**Prior Conviction or Prior Adjudication** For purposes of the *Guidelines*, means a plea of guilty or nolo contendere, a verdict of guilty, a judgment of guilt, or an adjudication occurring before the conviction for the offense which serves as the basis for the current sentencing. A conviction which was set aside under the provision of C.Cr.P. 893 shall be included as a prior conviction. A plea of guilty under R.S. 40:983 shall be included as a prior conviction unless the defendant was subsequently discharged and the case dismissed.

## C. Criminal History Index Factors

1. The criminal history index is based on points derived from the following factors:

- a. prior felony convictions;
- b. prior applicable misdemeanor convictions;
- c. prior applicable adjudications of delinquency;
- d. custody status at the time of the commission of the offense serving as the basis for the current conviction.

2. The Criminal History Index is composed of seven classes ranging from Class A, most serious criminal history, to Class G, least serious criminal history.

### 3. Method of Calculation

a. Prior felony convictions and adjudications: Score all prior felony convictions and applicable felony adjudications of delinquency by the number of points ascribed to the seriousness level of the offense of conviction as set forth in Chapter 4, ' 402.A and C. If the prior felony conviction is based on an unranked offense, i.e., not ranked in the crime seriousness ranking tables, the court may assign a seriousness score of one point to the conviction. If the court believes that a seriousness score of one point significantly under-represents the seriousness of the prior conviction, the judge may use the seriousness score of an analogous offense, provided the court states for the record why the unranked offense is analogous to the ranked offense which serves as the basis for the score.

b. Prior misdemeanor convictions and adjudications: Add **3** point, not to exceed a total of one point, for each qualifying misdemeanor. An offender's criminal history index score for misdemeanor convictions or adjudications shall not increase the offender's criminal history index more than one class. The following misdemeanor convictions or adjudications qualify:

- i. any misdemeanor conviction for an offense in R.S. Title 14 or the Uniform Controlled Dangerous Substances Law of R.S. Title 40 or any local ordinance which is substantially similar to an offense in Title 14 or the Uniform Controlled Dangerous Substances Law of Title 40;
- ii. any misdemeanor conviction for a traffic offense in R.S. Title 32 or local traffic ordinance substantially similar to any Title 32 traffic offense if the current offense of conviction involves the operation of a motor vehicle;

iii. any misdemeanor adjudication if, at the time of the commission of the current offense, the offender was under age 17, and is being prosecuted as an adult.

c. Prior similar criminal behavior: Add **2** point for each prior felony conviction or adjudication if the prior offense of conviction or adjudication is in the same crime family as the current offense of conviction. See Chapter 4, '402.D, Crime Family Table. The court also may add the additional one-half point if the court finds that the prior conviction or adjudication was analogous to the offenses in the crime family of the current offense, and states for the record the reasons for the finding.

d. Offenses committed during custody status: Add one point if the current felony offense was committed while the offender was in a custody status.

e. Multiple convictions on same day: Count only the most serious conviction or adjudication if more than one conviction or adjudication occurred on the same day.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 15:321-329.

**HISTORICAL NOTE:** Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, Louisiana Sentencing Commission, LR 18:46 (January 1992), repromulgated LR 18:166 (February 1992), amended LR 18:960 (September 1992), LR 19:892 (July 1993), LR 20:786 (July 1994).

## **§207. Designated Sentence Ranges**

### **A. The Appropriate *Grid* Cell**

1. The offense of conviction determines the appropriate seriousness level on the vertical axis of the *Grid*. See *Sentencing Guidelines Grid*.

2. The offender's criminal history index score determines the appropriate criminal history class on the horizontal axis of the *Grid*.

3. The designated sentence range is found in the *Grid* cell at the intersection of the row defined by the crime seriousness level and the column defined by the criminal history index.

### **B. Incarceration Sanction Zone Sentences**

1. The Incarceration Sanction Zone includes all cells above the shaded area. See *Sentencing Guidelines Grid*. The court should impose a sentence consisting exclusively of incarceration for typical cases located in this zone.

2. Each cell in this zone contains a designated sentence range of incarceration in months.

3. Designated sentences of incarceration permit the court to determine the manner in which the sentence is to be served, i.e., with or without hard labor, as provided by law.

### **C. Discretionary Sanction Zone Sentences**

1. The Discretionary Sanction Zone includes all cells in the shaded area. See *Sentencing Guidelines Grid*. Each cell in this zone contains a designated range of sanction units for use when an intermediate sanction is imposed and a

designated sentence range in months for use when a sentence of incarceration is given.

2. For typical cases in this zone, the court should consider whether the offender should be sentenced to incarceration, to an intermediate sanction, or to a combination of the two, depending upon the circumstances of the particular case. If the court imposes an intermediate sanction or sanctions, the resulting intermediate sanction, or combination of intermediate sanctions, should be within the designated range of sanction units.

3. Incarceration sanctions which should be considered for cases in this zone include, but are not limited to, shock incarceration, work release, work-day release, incarceration as a condition of probation, and periodic incarceration, such as confinement at regular intervals (e.g. weekends).

### **D. Intermediate Sanction Zone**

1. The Intermediate Sanction Zone includes all cells below the shaded area. See *Sentencing Guidelines Grid*. For typical cases in this zone, the court should impose a sentence consisting of an intermediate sanction or sanctions unless a mandatory sentence of incarceration is required by law.

a. Intermediate sanctions include any sanction the court may impose other than incarceration in a jail or prison unless the term is served as periodic incarceration.

b. Intermediate sanctions include, but are not limited to, probation, intensive supervision, periodic incarceration, home incarceration, community service, in-patient treatment, out-patient treatment, economic sanctions, and denial of privilege, such as driver's license.

2. Each cell in this zone contains a designated range of sanction units which may be fashioned by the judge into a specific sentence with a combination of sanctions by utilizing the *Intermediate Sanction Exchange Table*. See Chapter 4, '403.D, Using the Intermediate Sanction Exchange Table.

3. The duration of intermediate sanction sentences will vary according to the sanction or sanctions selected by the court.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 15:321-329.

**HISTORICAL NOTE:** Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, Louisiana Sentencing Commission, LR 18:47 (January 1992).

## **§209. Departures from the Designated Sentence Range**

### **A. Procedure for Departure**

1. The designated sentence range provided in the *Grid* is appropriate for a typical case; that is, an offense committed without aggravating or mitigating circumstances.

2. A departure from the designated sentence range occurs whenever the court imposes a sentence which is different from the types of sentences or outside the



designated sentence range provided in the zone and cell appropriate to the case.

3. The court should depart from the designated sentence range when sufficient aggravating or mitigating circumstances are present significantly to differentiate the case from the typical case arising under the offense of conviction.

4. When departing from the designated sentence range, the court shall:

a. pronounce a sentence which is proportional to the seriousness of the offense and the offender's criminal history; and

b. state for the record the reasons for the departure which shall specify the mitigating or aggravating circumstances, and the factual basis therefor.

5. Reasons for departure from the designated sentence range are appropriate only when such reasons are based on mitigating or aggravating circumstances.

B. *Aggravating circumstance* means a factor which is present to a significant degree which makes the present case more serious than the typical case arising under the offense of conviction. Factors which constitute essential elements of the offense of conviction or separate offense(s) for which defendant was convicted and sentenced shall not be considered aggravating circumstances. The following factors constitute aggravating circumstances:

1. The offender's conduct during the commission of the offense manifested deliberate cruelty to the victim.

2. The offender knew or should have known that the victim of the offense was particularly vulnerable or incapable of resistance due to extreme youth, advanced age, disability or ill health.

3. The offender offered or has been offered or has given or received anything of value for the commission of the offense.

4. The offender used his or her position or status to facilitate the commission of the offense.

5. The offender knowingly created a risk of death or great bodily harm to more than one person.

6. The offender used threats of or actual violence in the commission of the offense.

7. Subsequent to the offense, the offender used or caused others to use violence, force, or threats with the intent to influence the institution, conduct, or outcome of the criminal proceedings.

8. The offender committed the offense in order to facilitate or conceal the commission of another offense.

9. The offense resulted in a significant permanent injury or significant economic loss to the victim or his family.

10. The offender used a dangerous weapon in the commission of the offense.

11. The offense involved multiple victims or incidents for which separate sentences have not been imposed.

12. The offender was persistently involved in similar offenses not already considered as criminal history or as part of a multiple offender adjudication.

13. The offender was a leader or his violation was in concert with one or more other persons with respect to whom the offender occupied a position of organizer, a supervisory position, or any other position of management.

14. The offense was a major economic offense.

15. The offense was a controlled dangerous substance offense and the offender obtained substantial income or resources from ongoing drug activities.

16. The offense was a controlled dangerous substance offense in which the offender involved juveniles in the trafficking or distribution of drugs.

17. The offender committed the offense in furtherance of a terrorist action.

18. The offender's record of convictions for prior criminal conduct exceeds the threshold for Class A by at least two points on the criminal history index.

19. The offender foreseeably endangered human life by discharging a firearm during the commission of an offense which has, as an element, the use, attempted use, or threatened use of physical force against the person or property of another, and which, by its very nature, involves a substantial risk that physical force may be used in the course of committing the offense.

20. The offender used a firearm or other dangerous weapon while committing or attempting to commit an offense which has, as an element, the use, attempted use, or threatened use of physical force against the person or property of another, and which, by its very nature, involves a substantial risk that physical force may be used in the course of committing the offense.

21. The offender used a firearm or other dangerous weapon while committing or attempting to commit a controlled dangerous substance offense.

22. Any other relevant aggravating circumstances which distinguish the case from the typical case of the offense of conviction.

C. *Mitigating circumstance* means a factor which is present to a significant degree which lessens the seriousness of the offense below the level of the typical case arising under the offense of conviction. Factors which constitute a legal defense shall not be considered mitigating circumstances. The following factors constitute mitigating circumstances:

1. At the time of offense, to a degree, the victim was the initiator, willing participant, aggressor, provoker of the incident, or enticed the offender.

2. The offender committed the crime under some degree of duress, coercion, threat, or compulsion.

3. At the time of the offense, the capacity of the offender to appreciate the criminality of his conduct or to conform his conduct to the requirements of law was somewhat impaired.

4. The offense was committed while the offender was under the influence or under domination of another person.

5. The offense was committed while the offender was under the influence of significant mental or emotional disturbance.

6. The offense was committed under circumstances which the offender reasonably believed would provide for a moral justification or extenuation for his conduct.

7. The offender committed the offense without significant premeditation.

8. The offender's judgment was impaired because of his extreme youth or advanced age.

9. The defendant manifested caution or sincere concern for the safety or well-being of the victim.

10. The offender played a minor or passive role in the crime.

11. The offender compensated, or made a good faith effort to compensate, the victim of the criminal conduct for any damage or injury sustained.

12. The offender cooperated with law enforcement authorities with respect to the current crime of conviction or any other criminal conduct by the offender or other person.

13. The offender was motivated by a desire to provide basic necessities of life for his family or others.

14. The offense involved a small quantity of a controlled dangerous substance and the offense was committed exclusively to support his personal drug habit.

15. The offender pled guilty or otherwise accepted responsibility for the offense and expressed genuine remorse.

16. The offender took steps which rehabilitated him or were reasonably related to his rehabilitation.

17. The offender has spent a significant period of time free of any custody status during which he has not engaged in any criminal activity resulting in a felony or misdemeanor conviction, as defined herein. If deemed appropriate, the court may consider the suggested crime-free time reduction factors in Chapter 4, '402.E. Any prior conviction or adjudication of a level 0 offense shall not be reduced.

18. Any other relevant mitigating circumstances which distinguish the case from the typical case of the offense of conviction.

D. Special Provisions for the Use of Sanction Units in an Approved Treatment Plan. When the sentencing court finds it appropriate to impose a sentence composed in whole or in part of sanction units requiring the defendant's participation in a program of treatment, the court may exceed the maximum number of sanction units provided in the

appropriate *Grid* cell if the court finds that additional sanction units are necessary for the satisfactory completion of the treatment program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:321-329.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, Louisiana Sentencing Commission, LR 18:47 (January 1992), amended LR 18:960 (September 1992), LR 19:892 (July 1993), LR 20:787 (July 1994).

### **§211. Mandatory Minimum Sentences**

If an offender has been convicted of an offense for which a mandatory term of imprisonment must be imposed which exceeds the maximum duration provided in the designated sentence range for that offense, the court should impose the minimum sentence required by law to be served in the manner required by law unless aggravating circumstances justify imposition of a more severe sentence.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:321-329.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, Louisiana Sentencing Commission, LR 18:48 (January 1992).

### **§213. Designated Sentence Durations that Exceed the Statutory Maximum Sentence**

If the minimum sentence duration provided by the sentence range in the appropriate cell of the *Grid* exceeds the statutory maximum sentence for the offense of conviction, the court should impose the statutory maximum sentence unless mitigating circumstances justify imposition of a more lenient sentence.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:321-329.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, Louisiana Sentencing Commission, LR 18:49 (January 1992).

### **§215. Concurrent and Consecutive Sentences**

#### **A. Factors to be Considered**

1. The sentencing court may impose either concurrent or consecutive sentences in cases where a defendant has been convicted of two or more offenses. In determining whether to impose either a concurrent or a consecutive sentence, the court should consider aggravating and mitigating circumstances which may be present.

2. If two or more criminal acts are based on the same act or transaction, or constitute parts of a common scheme or plan, concurrent sentences should be imposed.

3. In all other cases, concurrent or consecutive sentences should be supported by appropriate factors. If a consecutive sentence is imposed, the court shall state for the record the factors considered and the reasons for imposition of a consecutive sentence.

4. If statutory law requires that a sentence be imposed either concurrently or consecutively, the sentences must be imposed in the manner prescribed by law.

B. Procedure for Imposing Concurrent Sentence. If the court finds that concurrent sentences should be imposed, the following procedures apply:

1. Concurrent Sentences of Incarceration

a. A sentence is imposed for each offense of conviction.

b. The sentence with the longest term of incarceration shall set the term of incarceration.

c. Only one term of post-prison supervision should be ordered. The length of the post-prison term should be determined by the longest term of incarceration imposed.

2. Concurrent Intermediate Sanction Sentences

a. A sentence is imposed for each offense of conviction.

b. The sentence with the largest number of sanction units should determine the number of sanction units available for the concurrent sentences.

C. Procedure for Imposing Consecutive Sentences. If the court finds that a consecutive sentence should be imposed, the following procedures apply to determine the base sentence range and the recommended sentence.

1. The base sentence range is established by determining, from the appropriate cell in the *Grid*, the designated sentence range for the most serious offense of conviction. The most serious offense is the offense with the longest statutory term of incarceration or the offense with the longest term of incarceration within the designated sentence range under the *Guidelines*, whichever is greater.

2. After the base sentence range for the most serious offense has been determined, the remaining offenses provide the additional penalty to be imposed. No more than 50 percent of the minimum of the *Grid* range for each of the subsequent offenses for which the offender is being sentenced should be added.

3. If the offense from which the base sentence range is determined requires imposition of a term of incarceration at hard labor, the entire term of imprisonment imposed should be at hard labor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:321-329.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, Louisiana Sentencing Commission, LR 18:49 (January 1992), amended LR 18:961 (September 1992).

## Chapter 3. General Sentencing Policy

### §301. Plea Agreements Involving Stipulated Sentences

#### A. Stipulating the Grid Cell

1. As part of a plea agreement under the *Guidelines*, the parties may stipulate a cell within the *Grid* regardless of whether the cell corresponds to the defendant's criminal history index and the crime seriousness level of the offense(s) to which the defendant will plead.

2. In such cases, the court may:

- a. accept the stipulated cell and impose a sentence within the range provided; or
- b. reject the plea agreement.

#### B. Stipulating a Specific Sentence

1. As part of a plea agreement under the *Guidelines*, the parties may stipulate a specific sentence regardless of whether the sentence is within the range provided in the cell which corresponds to the defendant's criminal history index and the crime seriousness level of the offense(s) to which the defendant will plead.

2. If stipulation is made to a specific sentence, the court may:

- a. accept the plea agreement and impose the stipulated sentence; or
- b. reject the plea agreement.

#### C. Stipulating Specific Facts and Circumstances

1. As part of a plea agreement under the *Guidelines*, the parties may stipulate the facts and circumstances of the case and the prior criminal history of the defendant.

2. If the parties enter such a stipulation at the time of the plea, the court shall either:

- a. accept the stipulation; or
- b. refuse to accept the plea of guilty with such a stipulation.

3. If such a stipulation is entered and accepted, the court shall consider such a stipulation to be the facts and circumstances of the case and the criminal history of the defendant for purposes of imposition of sentence.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:321-329.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, Louisiana Sentencing Commission, LR 18:49 (January 1992), amended LR 20:787 (July 1994).

### §303. Revocation of Probation

#### A. Violation of Condition of Probation

1. If an offender is brought before the court for the violation of a condition of probation which does not involve commission and conviction of a subsequent offense and the court does not consider revocation appropriate, the court may impose up to eight additional sanction units in consideration of the violation, e.g., up to two weeks in jail or 160 hours of community service, in lieu of revocation.

2. If the offender is brought before the court a second time for the violation of such a condition of probation, and

the court does not consider revocation appropriate, the court may impose up to an additional 16 sanction units in lieu of revocation.

3. If the offender is brought before the court a third time for the violation of such a condition of probation, the court should consider revocation in lieu of an additional 16 sanction units.

B. Violation of Probation for Commission or Conviction of Misdemeanor. If an offender on probation is brought before the court for the commission or conviction of a misdemeanor, the court may impose up to eight additional sanction units or revoke the probation.

C. Violation of Probation for Commission or Conviction of Felony. If an offender on probation is brought before the court for the commission or conviction of a felony, the court may impose up to 16 additional sanction units or revoke the probation.

D. Imposition of Sentence Following Revocation. If the imposition of sentence was suspended, and the offender's probation is revoked, the court should follow the *Guidelines* in imposing sentence.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:321-329.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, Louisiana Sentencing Commission, LR 18:49 (January 1992).

### **§305. Credit for Time Served**

A. If a sentence of incarceration is imposed and executed, an offender should be given credit for time served under the following conditions prior to the imposition or execution of sentence:

1. time spent in actual custody in connection with the offense of conviction;
2. time spent in actual custody in a public or private mental hospital or other similar facility if ordered by the court in connection with the offense of conviction;
3. time spent in actual custody as a condition of probation if that probation is subsequently revoked.

B. *Actual custody* as used in this Section is limited to time spent in confinement in prisons, jails, parish prisons, prison farms, workhouses, work-release centers, regional correctional facilities, public or private mental hospitals, or other similar facilities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:321-329.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, Louisiana Sentencing Commission, LR 18:50 (January 1992).

### **§307. Juveniles Tried as Adults**

If a person under 17 years of age is prosecuted as an adult in a court exercising criminal jurisdiction, the *Guidelines*

should be applied in the same manner as though the person were an adult.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:321-329.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, Louisiana Sentencing Commission, LR 18:50 (January 1992).

### **§309. Habitual Offender Sentencing**

A. The *Guidelines* increase the designated sentence range for an offender on the basis of the offender's prior criminal convictions, custody status, and the crime family of the current and prior convictions. In those cases in which the district attorney determines that the offender's pattern of past criminal conduct has been significantly more extensive than the typical offender with the same criminal history index, the district attorney may institute proceedings under R.S. 15:529.1, the Habitual Offender Law.

B. Any person who has been convicted of a felony and adjudged an habitual offender shall receive an enhanced penalty as provided by R.S. 15:529.1, the Habitual Offender Law. In such cases, the enhanced sentence may exceed the maximum sentence range specified in the appropriate cell in the *Grid*. In such cases, the court should impose the minimum sentence provided by law unless aggravating circumstances justify imposition of a more severe sentence.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:321-329.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, Louisiana Sentencing Commission, LR 18:50 (January 1992).

### **§311. Parole, Good Time, Commutation of Sentence, Pardon**

A. The sentence, derived from the seriousness of the offense committed, the criminal history index of the offender, and any aggravating or mitigating circumstances, should reflect the maximum length of time an offender should remain in actual custody or under supervision, and the manner in which a sentence should be served.

B. Eligibility for good time and parole should not affect the determination of the sentence to be imposed by the sentencing court.

C. Parole eligibility is determined by law. An offender is eligible for parole consideration only after having served the statutorily required portion of his designated sentence.

D. The decision to grant or deny parole should be based primarily on the offender's record of behavior while in custody following conviction, such as the person's conduct while incarcerated, including participation in educational or job training programs.

E. The *Guidelines* are not intended to affect the granting of pardons or commuting of sentences by the governor upon recommendations of the Board of Pardons.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:321-329.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, Louisiana Sentencing Commission, LR 18:50 (January 1992).

## Chapter 4. Louisiana Sentencing Guidelines Tables

### §401. Criminal Seriousness Tables

#### A. Crime Seriousness Master Ranking List

Ranked Felonies and R.S. Nos. by Crime Seriousness Level			
Grid Level	Offense	R.S. No.	Category
0	Aggravated Kidnaping	14:44	I
	Aggravated Rape	14:42	
	Distribution of Drugs to a Child (Sched. I, Narcotic)	40:981	
	Distribution of Drugs using a Child (Sched. I, Narcotic)	40:981.2	
	Drug Free Zones: 40:966(A)(1) - Manufacture/Distribution of Drugs (Sched. I, Narcotic)	40:981.3	
	Drug Free Zones: 40:966(A)(1) - Possession with Intent to Distribute (Sched. I, Narcotic)	40:981.3	
	First Degree Murder	14:30	
	Manufacture/Distribution of Drugs (Sched. I, Narcotic)	40:966(A)(1)	
	Possession with Intent to Distribute	40:966(A)(1)	
	Second Degree Murder	14:30.1	
1	Aggravated Burglary	14:60	I
	Aggravated Crime Against Nature	14:89.1	
	Aggravated Oral Sexual Battery (Type I: Force or threat of force, or 2 or more offenders)	14:43.4(A), (1-3, 5)	
	Aggravated Sexual Battery	14:43.2	
1	Armed Robbery	14:64	I
	Attempt (to Commit any level 0 felony)	14:27	
	Carjacking	14:64.2	
	Conspiracy (to commit any level 0 felony)	14:26	
	Drug Free Zones: 40:966(A)(1) - Manufacture/Distribution of Drugs (Sched. I, Non-narcotic and Non-marijuana)	40:981.3	
	Drug Free Zones: 40:966(E)(3) - Possession of 10,000 lbs or more of Marijuana	40:981.3	
	Drug Free Zones: 40:967(A)(1) - Manufacture/Distribution of Drugs (Sched. II, Narcotic)	40:981.3	
	Forcible Rape	14:42.1	
	Inciting to Riot (Type I: Injury to victim resulting in death)	14:329.2 :329.7(C)	
	Manslaughter	14:31	
	Possession of 400 or more grams of Cocaine (Detectable amount)	14:967(F) (1)(c)	
	Possession of 400 or more grams of Amphetamine or Methamphetamine (Detectable amount)	40:967(F) (2)(c)	

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	Second Degree Kidnaping	14:44.1	
2	Aggravated Battery Attempt (to commit any level 1 felony) Conspiracy (to commit any level 1 felony)	14:34 14:27 14:26	II
2	Cruelty to Juveniles (Type I: Intentional injury to victim) Cruelty to the Infirm (Type I: Intentional injury to victim) Distribution of Drugs to a Child (Sched. I, Non-narcotic and Non-marijuana of Sched. II, Narcotic) Distribution of Drugs using a Child (Sched. I, Non-narcotic and Non-marijuana or Sched. II, Narcotic) Drug Free Zones: 40:966(A)(1) - Manufacture/Distribution of Marijuana Drug Free Zones: 40:966(A)(1) - Possession with Intent to Distribute (Sched. I, Non-narcotic and Non-marijuana) Drug Free Zones: 40:966(E)(2) - Possession of 2,000 lbs or more but less than 10,000 lbs of Marijuana Drug Free Zones: 40:967(A)(1) - Possession with Intent to Distribute (Sched. II, Narcotic) Drug Free Zones: 40:967(A)(1) - Manufacture/Distribution of Drugs (Sched. II, Non-narcotic) Drug Free Zones: 40:968(A)(1) - Manufacture/Distribution of Drugs (Sched. III) Drug Free Zones: 40:969(A)(1) - Manufacture/Distribution of Drugs (Sched. IV)	14:93 14:93.3 40:981 40:981.2 40:981.3 40:981.3 40:981.3 40:981.3 40:981.3 40:981.3 40:981.3	II
2	First Degree Robbery Manufacture/Distribution of Drugs (Sched. I, Non-narcotic and Non-marijuana) Manufacture/Distribution of Drugs (Sched. II, Narcotic) Obstruction of Justice (Type I: Obstruction in a capital or life imprisonment case)	14:64.1 40:966(A)(1) 40:967(A)(1) 14:130.1(A), (B)(1)	II
	Possession of 10,000 lbs or more of Marijuana Possession of more than 200 but less than 400 grams of Cocaine (Detectable amount) Possession of more than 200 but less than 400 grams of Amphetamine or Methamphetamine (Detectable amount) Simple Rape	40:966(E)(3) 40:967(F)(1)(b) 40:967(F)(2)(b) 14:43	
3	Aggravated Arson Aggravated Criminal Damage to Property Aggravated Escape (Type I: Foreseeable danger to human life) Aggravated Oral Sexual Battery (Type II: Victim is under 12 yrs) Assault by Drive-by Shooting Attempt (to commit any level 2 felony)	14:51 14:55 14:110(C) 14:43.4(A)(4) 14:37.1 14:27	II
3	Battery of a Police Officer (Type I: Serious bodily injury and offender is under jurisdiction and custody of Department of Public Safety and Corrections) Conspiracy (to commit any level 2 felony)	14:34.2(B) 14:26	II

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	Distribution of Drugs to a Child (Sched. II, Non-narcotic or Sched. III, or Sched IV or Marijuana)	40:981	
	Distribution of Drugs using a Child (Sched. II, Non-narcotic or Sched. III, or Sched. IV or Marijuana)	40:981.2	
	Drug Free Zones: 40:967(A)(1) - Possession with Intent to Distribute (Sched. II, Non-narcotic)	40:981.3	
	Drug Free Zones: 40:968(A)(1) - Possession with Intent to Distribute (Sched. III)	40:981.3	
	Drug Free Zones: 40:969(A)(1) - Possession with Intent to Distribute (Sched. IV)	40:981.3	
	Drug Free Zones: 40:970(A)(1) - Manufacture/Distribution of Drugs (Sched. V)	40:981.3	
	False Imprisonment with a Dangerous Weapon	14:46.1	
	Institutional Vandalism (Type I: Damage is \$50,000 or more)	14:225(A), (B)(3)	
	Looting	14:62.5	
	Manufacture/Distribution of Drugs (Sched. II, Non-narcotic)	40:967(A)(1)	
3	Manufacture/Distribution of Drugs (Sched. III) Manufacture/Distribution of Drugs (Sched. IV)	40:968(A)(1) 40:969(A)(1)	II
	Molestation of a Juvenile	14:81.2	
	Obstruction of Justice (Type II: Obstruction in felony case necessarily punishable at hard labor for less than life)	14:130.1(A), (B)(2)	
	Oral Sexual Battery (Type I: Compulsion by fear of bodily harm)	14:43.3	
	Pornography Involving Juveniles	14:81.1	
	Possession of 2,000 lbs or more but less than 10,000 lbs of Marijuana	40:966(E)(2)	
	Possession of more than 28 but less than 200 grams of Cocaine (Detectable amount)	40:967(F)(1)(a)	
	Possession of more than 28 but less than 200 grams of Amphetamine or Methamphetamine (Detectable amount)	40:967(F)(2)(a)	
	Possession with Intent to Distribute (Sched. I, Non-narcotic and Non-marijuana)	40:966(A)(1)	
	Possession with Intent to Distribute (Sched. II, Narcotic)	40:967(A)(1)	
	Purse Snatching	14:65.1	
	Riot (Type I: Participating in riot with injury to victim resulting in death)	14:329.1 :329.7(C)	
3	Second Degree Battery Sexual Battery (Type I: Compulsion by fear of bodily harm) Simple Burglary of an Inhabited Dwelling Simple Robbery Vehicular Homicide	14:34.1 14:43.1 14:62.2 14:65 14:32.1	II
4	Attempt (to commit any level 3 felony) Conspiracy (to commit any level 3 felony) Carnal Knowledge of a Juvenile Carrying a Firearm by a Student or Non-student on School Property or Firearm-Free Zone	14:27 14:26 14:80 14:95.2	III

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	Criminal Damage of A Pipeline Facility (Type I: Foreseeable danger to human life)	14:56.2(D)	
	Distribution of Drugs to a Child (Sched. V)	40:981	
	Distribution of Drugs using a Child (Sched. V)	40:981.2	
	Drug Free Zones: 40:966(A)(1) - Possession of Marijuana with Intent to Distribute	40:981.3	
	Drug Free Zones: 40:966(C)(1) - Possession of Drugs (Sched. I, Narcotic)	40:981.3	
	Drug Free Zones: 40:966(E)(1) - Possession of 60 lbs or more but less than 2,000 lbs of Marijuana	40:981.3	
	Drug Free Zones: 40:970(A)(1) - Possession with Intent to Distribute (Sched. V)	40:981.3	
4	Extortion	14:66	III
	Intentional Exposure of Aids Virus	14:43.5	
	Manufacture/Distribution of Drugs (Sched. V)	40:970(A)(1)	
	Manufacture /Distribution of Marijuana	40:966(A)(1)	
	Negligent Homicide	14:32	
	Obtaining Drugs by Fraud	40:971	
	Oral Sexual Battery (Type II: Victim is under 15 yrs)	14:43.3	
	Possession of 60 lbs or more but less than 2,000 lbs of Marijuana	40:966(E)(1)	
	Possession with Intent to Distribute Marijuana	40:966(A)(1)	
	Possession with Intent to Distribute (Sched. II, Non-narcotic)	40:967(A)(1)	
	Possession with Intent to Distribute (Sched. III)	40:968(A)(1)	
	Possession with Intent to Distribute (Sched. IV)	40:969(A)(1)	
	Sexual Battery (Type II: Victim is under 15 yrs)	14:43.1	
	Simple Burglary	14:62	
	Simple Burglary of a Pharmacy	14:62.1	
	Simple Criminal Damage to Property (Type I: Damage is \$50,000 or more)	14:56	
4	Simple Kidnaping	14:45	III
	Solicitation for Murder	14:28.1	
5	Attempt (to commit any level 4 felony)	14:27	III
	Battery of a Police Officer (Type II: No serious bodily injury and offender is under jurisdiction and custody of Department of Public Safety and Corrections)	14:34.2(B)	
	Conspiracy (to commit any level 4 felony)	14:26	
	Contributing to the Delinquency of Juveniles (Perform any sexually immoral act)	14:92(A)(7)	
	Cruelty to Juveniles (Type II: Criminally negligent or neglect)	14:93	
	Cruelty to the Infirm (Type II: Criminally negligent or neglect)	14:93.3	
	Drug Free Zones: 40:966(C)(2,3) - Possession of Drugs (Sched. I, Non-narcotic or Non-marijuana)	40:981.3	
	Drug Free Zones: 40:967(C) - Possession of Drugs (Sched. II, Narcotic)	40:981.3	
	Forgery	14:72	
	Illegal Possession of Stolen Goods (Type I: Value is \$500 or more)	14:69	



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5	Incest (Type I: Relationship is father, mother, brother or sister)	14:78(A), (D)(1)	III
	Indecent Behavior with Juveniles	14:81	
	Issuing Worthless Checks (Type I: Value is \$500 or more)	14:71	
	Offense Against Intellectual Property (Type I; Value is \$500 or more)	14:73.2	
	Operating a Vehicle while Intoxicated (Child Endangerment Law)	14:98(J)	
	Possession of Firearm or Carrying Concealed Weapon by a Person Convicted of Certain Felonies	14:95.1	
	Possession of Drugs (Sched. II, Narcotic)	40:967(C)	
	Possession of Intent to Distribute (Sched. V)	40:970(A)(1)	
	Prostitution Involving a Person Under 17	14:82.1	
	Theft (Type I: Value is \$500 or more)	14:67	
	Theft of Crawfish (Type I: Value is \$500 or more)	14:67.5	
	Theft of Domesticated Fish from a Fish Farm (Type I: Value is \$500 or more)	14:67.4	
	Theft of Goods (Type I: Value is \$500 or more)	14:67.10	
	Theft of Oil and Gas Equipment (Type I: Value is \$500 or more)	14:67.9	
6	Unauthorized Entry of an Inhabited Dwelling	14:62.3	
	Unauthorized Use of Access Card (Type I: Value is \$500 or more)	14:67.3	
	Accessory After the Fact (any felony)	14:25	IV
6	Assisting Escape	14:111	
	Attempt (to commit any level 5 felony)	14:27	
6	Conspiracy (to commit any level 5 felony)	14:26	IV
	Contraband; Taking to and from Penal Institutions	14:402 (A-D) (1-5), (E) (4-6)	
6	Contributing to the Delinquency of Juveniles (Become involved in commission of felony)	14:92(A)(11), (E)	
	Corrupt Influencing	14:120	
	Criminal Damage of a Pipeline Facility (Type II: No foreseeable danger to human life)	14:56.2(C)	
	Drug Free Zones: 40:967(C) - Possession of Drugs (Sched. II, Non-narcotic)	40:981.3	
	Drug Free Zones: 40:968(C) - Possession of Drugs (Sched. III)	40:981.3	
	Drug Free Zones: 40:969(C) - Possession of Drugs (Sched. IV)	40:981.3	
	Enticing Persons into Prostitution	14:86	
	False Personation of a Peace Officer	14:112.1	
	Illegal Carrying of Weapons	14:95	
	Incest (Type II: Relationship is not father, mother, brother or sister)	14:78(A), (D)(2)	
	Inciting to Riot (Type II: Serious bodily injury or property damage \$5,000 or more)	14:329.2 328.7(B)	
	Institutional Vandalism (Type II: Damage is \$500 or more but less than \$50,000)	14.225(A), (B)(2)	
	Intimidating, Impeding or Injuring Witnesses	14:129.1	
6	Jury Tampering	14:129	IV

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	Malfeasance in Office	14:134	
	Mingling Harmful Substances	14:38.1	
	Obscenity (Type I: Person under 17 yrs of age)	14:106(A)(1-3) (G)(4)	
	Obstruction of Justice (Type III: Obstruction in other criminal proceedings)	14:130.1(A), (B)(3)	
	Offense Against Computer Equipment and Supplies	14:73.3	
	Pandering (Force or threats, or parental consent)	14:84(1,3,5)	
	Perjury	14:123	
	Possession of Drugs (Sched. I, Narcotic)	40:966(C)(1)	
	Public Bribery	14:118	
	Public Intimidation	14:122	
	Simple Arson (Type I: Damage is \$500 or more)	14:52	
	Simple Criminal Damage to Property (Type II: Property damage is \$500 or more but less than \$50,000)	14:56	
	Simple Escape (Type II: Intentional escape)	14:110(A)(1), (B)(3)	
	Unauthorized Entry of a Place of Business	14:62.4	
7	Access Device Fraud	14:70.4	IV
	Arson with Intent to Defraud	14:53	
7	Attempt (to commit any level 6 felony)	14:27	IV
	Avoiding Payment of Telecommunication Services	14:221	
	Computer Fraud	14:73.5	
	Conspiracy (to commit any level 6 felony)	14:26	
	Damage to Property with Intent to Defraud	14:57	
	Drug Free Zones: 40:966(D) - Simple Possession of Marijuana (Second Offense)	40:981.3	
	Drug Free Zones: 40:970(C) - Possession of Drugs (Sched. V)	40:981.3	
	Fishing or Hunting Contest Fraud	14:214	
	Inciting a Felony (any felony)	14:28	
	Illegal Possession of Stolen Goods (Type II: Value is \$100 or more but \$500 less than)	14:69	
	Illegal Use of Counterfeit Trademark	14:229	
	Illegal Use of Weapons or Dangerous Instrumentalities	14:94	
	Issuing Worthless Checks (Type II: Value is \$100 or more but less than \$500)	14:71	
	Jumping Bail	14:110.1	
	Medicaid Fraud	14:70.1	
	Obtaining Rented or Leased Motor Vehicles by False Representation	14:220	
7	Offense Against Intellectual Property (Type II: Value is \$100 or more but less than \$500)	14:73.2	IV
	Operating a Vehicle While Intoxicated (Multiple offense)	14:98	
	Pandering	14:84(1-4, 6)	
	Possession of Drugs (Sched. I, Non-narcotic or Non-marijuana)	40:966(C) (2,3)	
	Terrorizing	14:40.1	

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	Theft (Type II: Value is \$100 or more but less than \$500)	14:67	
	Theft of Crawfish (Type II: Value is \$100 or more but less than \$500)	14:67.5	
	Theft of Domesticated Fish from a Fish Farm (Type II: Value is \$100 or more but less than \$500)	14:67.4	
	Theft of Goods (Type II: Value is \$100 or more but less than \$500)	14:67.10	
	Theft of Livestock	14:67.1	
	Theft of Oil and Gas Equipment (Type II: Value is \$100 or more but less than \$500)	14:67.9	
	Theft of Oilfield Geological Survey, Seismograph, and Production Maps	14:67.8	
	Theft of Petroleum Products	14:67.7	
	Theft of Utility Services (Second offense)	14:67.6	
7	Unauthorized Use of a Movable (Value more than \$1,000)	14:68	IV
	Unauthorized Use of Access Card (Type II: Value is \$100 or more but less than \$500)	14:67.3	
8	Attempt (to commit any level 7 felony)	14:27	V
	Conspiracy (to commit any level 7 felony)	14:26	
	Contraband; Taking to and from Penal Institutions	14:402(D) (6-8), (E) (1-3)	
	Criminal Damage to Coin-Operated Device	14:56.1	
	Dogfighting	14:102.5	
	Improper Telephone Communications (Second offense)	14:285	
	Obscenity	14:106	
	Possession of Drugs (Sched. II, Non-narcotic)	40:967(C)	
	Possession of Drugs (Sched. III)	40:968(C)	
	Possession of Drugs (Sched. IV)	40:969(C)	
	Public Contract Fraud	14:140	
	Public Payroll Fraud	14:138	
	Riot (Type II: Participating in a riot resulting in serious bodily injury or property damage \$5000 or more)	14:329.1	
	Simple Arson (Type II: Damage is less than \$500)	14:52	
8	Taking of Contraband to State-Owned Hospitals	14:402.1	V
9	Attempt (to commit any level 8 or 9 felony)	14:27	V
	Conspiracy (to commit any level 8 or 9 felony)	14:26	
	Crime Against Nature	14:89	
	Encouraging or Contributing to Child Delinquency	14:92.1	
	Possession of Drugs (Sched. V)	40:970(C)	
	Promoting Prostitution	14:83.2	
	Prostitution (Second offense)	14:82	
	Simple Escape (Type III: Failure to return)	14:110(A) (2,3), (B) (1,2)	
	Simple Possession of Marijuana (Second offense)	40:966(D)	

## CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT

## B. Felonies Ranked Numerically by Status Number

<b>A Listing of Louisiana's Statutory Felony Offenses in Revised Statutes Title 14 and Title 40 by Statute Number</b>		
+ One level below the crime seriousness level of the completed offense		
* Unranked		
<b>R. S. No.</b>	<b>Offense</b>	<b>Grid Level</b>
14:25	Accessory After the Fact (any felony)	6
14:26	Criminal Conspiracy	+
14:27	Attempt	+
14:28	Inciting a Felony (any felony)	7
14:28.1	Solicitation of Murder	4
14:30	First Degree Murder	0
14:30.1	Second Degree Murder	0
14:31	Manslaughter	1
14:32	Negligent Homicide	4
14:32.1	Vehicular Homicide	3
14:34	Aggravated Battery	2
14:34.1	Second Degree Battery	3
14:34.2(B)	Battery of a Police Officer (Type I: Serious bodily injury and offender is under jurisdiction and custody of Department of Public Safety and Corrections)	3
14:34.2(B)	Battery of a Police Officer (Type II: No serious bodily injury and offender is under jurisdiction and custody of Department of Public Safety and Corrections)	5
14:37.1	Assault by Drive-by Shooting	3
14:38.1	Mingling Harmful Substances	6
14:40.1	Terrorizing	7
14:42	Aggravated Rape	0
14:42.1	Forcible Rape	1
14:43	Simple Rape	2
14:43.1	Sexual Battery (Type I: Compulsion by fear of bodily harm)	3
14:43.1	Sexual Battery (Type II: Victim is under 15 yrs)	4
14:43.2	Aggravated Sexual Battery	1
14:43.3	Oral Sexual Battery (Type I: Compulsion by fear of bodily harm)	3
14:43.3	Oral Sexual Battery (Type II: Victim is 15 yrs)	4
14:43.4(A)(1-3,5)	Aggravated Oral Sexual Battery (Type I: Force or threat of force, or 2 or more offenders)	1
14:43.4(A)(4)	Aggravated Oral Sexual Battery (Type II: Victim is under 12 yrs)	3
14:43.5	Intentional Exposure of Aids Virus	4
14:44	Aggravated Kidnaping	0
14:44.1	Second Degree Kidnaping	1
14:45	Simple Kidnaping	4
14:46.1	False Imprisonment with a Dangerous Weapon	3
14:51	Aggravated Arson	3
14:52	Simple Arson (Type I: Damage is \$500 or more)	6

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14:52	Simple Arson (Type II: Damage is less than \$500)	8
14:53	Arson with Intent to Defraud	7
14:54.1	Communicating of False Information of Planned Arson	*
14:54.2	Manufacture and Possession of Delayed Action Incendiary Devices	*
14:54.3	Manufacture and Possession of a Bomb	*
14:55	Aggravated Criminal Damage to Property	3
14:56	Simple Criminal Damage to Property (Type I: Damage is \$50,000 or more)	4
14:56	Simple Criminal Damage to Property (Type II: Damage is \$500 or more but less than \$50,000)	6
14:56.1	Criminal Damage to Coin-Operated Device	8
14:56.2(D)	Criminal Damage of a Pipeline Facility (Type I: Foreseeable danger to human life)	4
14:56.2(C)	Criminal Damage of a Pipeline Facility (Type II: No Foreseeable danger to human life)	6
14:57	Damage to Property with Intent to Defraud	7
14:58	Contaminating Water Supplies	*
14:60	Aggravated Burglary	1
14:62	Simple Burglary	4
14:62.1	Simple Burglary of a Pharmacy	4
14:62.2	Simple Burglary of an Inhabited Dwelling	3
14:62.3	Unauthorized Entry of an Inhabited Dwelling	5
14:62.4	Unauthorized Entry of a Place of Business	6
14:62.5	Looting	3
14:64	Armed Robbery	1
14:64.1	First Degree Robbery	2
14:64.2	Carjacking	1
14:65	Simple Robbery	3
14:65.1	Purse Snatching	3
14:66	Extortion	4
14:67	Theft (Type I: Value is \$500 or more)	5
14:67	Theft (Type II: Value is \$100 or more but less than \$500)	7
14:67.1	Theft of Livestock	7
14:67.3	Unauthorized Use of Access Card (Type I: Value is \$500 or more)	5
14:67.3	Unauthorized Use of Access Card (Type II: Value is \$100 or more but less than \$500)	7
14:67.4	Theft of Domesticated Fish from a Fish Farm (Type I: Value is \$500 or more)	5
14:67.4	Theft of Domesticated Fish from a Fish Farm Type II: Value is \$100 or more but less than \$500)	7
14:67.5	Theft of Crawfish (Type I: Value is \$500 or more)	5
14:67.5	Theft of Crawfish (Type II: Value is \$100 or more but less than \$500)	7
14:67.6	Theft of Utility Services (Second offense)	7
14:67.7	Theft of Petroleum Products	7
14:67.8	Theft of Oilfield Geological Survey, Seismograph, and Production Maps	7
14:67.9	Theft of Oil and Gas Equipment (Type I: Value is \$500 or more)	5
14:67.9	Theft of Oil and Gas Equipment (Type II: Value is \$100 or more but less than \$500)	7
14:67.10	Theft of Goods (Type I: Value is \$500 or more)	5

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14:67.10	Theft of Goods (Type II: Value is \$100 or more but less than \$500)	7
14:68	Unauthorized Use of a Movable (Value more than \$1,000)	7
14:69	Illegal Possession of Stolen Goods (Type I: Value is \$500 or more)	5
14:69	Illegal Possession of Stolen Goods (Type II: Value is \$100 or more but less than \$500)	7
14:70.1	Medicaid Fraud	7
14:70.4	Access Device Fraud	7
14:71	Issuing Worthless Checks (Type I: Value is \$500 or more)	5
14:71	Issuing Worthless Checks (Type II: Value is \$100 or more but less than \$500)	7
14:72	Forgery	5
14:73.2	Offense Against Intellectual Property (Type I: Value is \$500 or more)	5
14:73.2	Offense Against Intellectual Property (Type II: Value is \$100 or more but less than \$500)	7
14:73.3	Offense Against Computer Equipment and Supplies	6
14:73.4	Offenses Against Computer Users	*
14:73.5	Computer Fraud	7
14:76	Bigamy	*
14:77	Abetting in Bigamy	*
14:78(A), (D)(1)	Incest (Type I: Relationship is father, mother, brother or sister)	5
14:78(A), (D)(2)	Incest (Type II: Relationship is not father, mother, brother or sister)	6
14:80	Carnal Knowledge of a Juvenile	4
14:81	Indecent Behavior with Juveniles	5
14:81.1	Pornography Involving Juveniles	3
14:81.2	Molestation of a Juvenile	3
14:82	Prostitution (Second offense)	9
14:82.1	Prostitution Involving a Person Under 17	5
14:83.2	Promoting Prostitution	9
14:84(1,3,5)	Pandering (Force or threats, or parental consent	6
14:84(1-4,6)	Pandering	7
14:86	Enticing Persons into Prostitution	6
14:87	Abortion	*
14:87.1	Killing a Child During Delivery	*
14:87.2	Human Experimentation	*
14:87.4	Abortion Advertising	*
14:87.5	Intentional Failure to Sustain Life and Health of Aborted Viable Infant	*
14:89	Crime Against Nature	9
14:89.1	Aggravated Crime Against Nature	1
14:92(A)(7)	Contributing to the Delinquency of Juveniles (Perform any sexually immoral act)	5
14:92(A)(11), (E)	Contributing to the Delinquency of Juveniles (Become involved in commission of felony)	6
14:92.1	Encouraging or Contributing to Child Delinquency	9
14:93	Cruelty to Juveniles (Type I: Intentional injury to victim)	2
14:93	Cruelty to Juveniles (Type II: Criminally negligent or neglect)	5
14:93.3	Cruelty to the Infirm (Type I: Intentional injury to victim)	2

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14:93.3	Cruelty to the Infirm (Type II: Criminally negligent or neglect)	5
14:94	Illegal Use of Weapons or Dangerous Instrumentalities	7
14:95	Illegal Carrying of Weapons	6
14:95.1	Possession of Firearm or Carrying Concealed Weapon by a Person Convicted of Certain Felonies	5
14:95.2	Carrying a Firearm by a Student or Non-student on School Property or Firearm-free Zone	4
14:95.3	Unlawful Use of Body Armor	*
14:96	Aggravated Obstruction of a Highway of Commerce	*
14:98	Operating a Vehicle while Intoxicated (Multiple offense)	7
14:98(J)	Operating a Vehicle while Intoxicated (Child Endangerment Law)	5
14:100	Hit and Run Driving	*
14:101.1	Purchase or Sale of Human Organ	*
14:102.5	Dogfighting	8
14:102.8	Injuring or Killing of a Police Dog	*
14:106(A)(1-3), (G)(4)	Obscenity (Type I: Persons under 17 yrs of age)	6
14:106	Obscenity	8
14:106.1	Promotion or Wholesale Promotion of Obscene Devices	*
14:110(C)	Aggravated Escape (Type I: Foreseeable danger to human life)	3
14:110(A)(1), (B)(3)	Simple Escape (Type II: Intentional Escape)	6
14:110(A)(2,3), (B)(1,2)	Simple Escape (Type III: Failure to Return)	9
14:110.1	Jumping Bail	7
14:111	Assisting Escape	6
14:112.1	False Personation of a Peace Officer	6
14:113	Treason	*
14:114	Misprison of Treason	*
14:115	Criminal Anarchy	*
14:118	Public Bribery	6
14:118.1	Bribery of Sports Participants	*
14:119	Bribery of Voters	*
14:120	Corrupt Influencing	6
14:122	Public Intimidation	6
14:123	Perjury	6
14:126.1	False Swearing for Purpose of Violating Public Health	*
14:126.2	False Statements Concerning Denial of Constitutional Rights	*
14:129	Jury Tampering	6
14:129.1	Intimidating, Impeding or Injuring Witnesses	6
14:130.1(A),(B)(1)	Obstruction of Justice (Type I: Obstruction in a capital or life imprisonment case)	2
14:130.1(A), (B)(2)	Obstruction of Justice (Type II: Obstruction in felony case necessarily punishable at hard labor for less than life)	3

## CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT

14:130.1(A), (B)(3)	Obstruction of Justice (Type III: Obstruction in other criminal proceedings)	6
14:131	Compounding a Felony	*
14:132	Injuring Public Records	*
14:133	Filing False Public Records	*
14:134	Malfeasance in Office	6
14:134.2	Malfeasance in Office; tampering with Evidence	*
14:135	Public Salary Deduction	*
14:136	Public Salary Extortion	*
14:138	Public Payroll Fraud	8
14:139	Political Payroll Padding	*
14:139.1	Political Payroll Padding by Sheriff	*
14:139.2	Transfer of Capital Assets of Clerk of Court's Office	*
14:140	Public Contract Fraud	8
14:141	Splitting of Profits, Fees, or Commissions	*
14:201	Collateral Securities, Unauthorized Use or Withdrawal	*
14:202	Contractors, Misapplication of Payments Prohibited	*
14:209	Breaking Seals	*
14:214	Fishing or Hunting Contest Fraud	7
14:220	Obtaining Rented or Leased Motor Vehicles by False Representation	7
14:221	Avoiding Payment of Telecommunication Services	7
14:225(A), (B)(3)	Institutional Vandalism (Type I: Damage is \$50,000 or more)	3
14:225(A), (B)(2)	Institutional Vandalism (Type II: Damage is \$500 or more but less than \$50,000)	6
14:229	Illegal Use of Counterfeit Trademark	7
14:285	Improper Telephone Communications (Second offense)	8
14:286	Sale of Minor Children	*
14:327	Obstructing a Firearm	*
14:329.1 329.7(C)	Riot (Type I: Participating in riot with injury to victim resulting in death)	3
14:329.1 329.7(B)	Riot (Type II: Participating in riot resulting in serious bodily injury or property damage \$5,000 or more)	8
14:329.2 329.7(C)	Inciting to Riot (Type I: Injury to victim resulting in death)	1
14:329.2 329.7(B)	Inciting to Riot (Type II: Serious bodily injury or property damage \$5,000 or more)	6
14:329.3	Failure to Comply with Command to Disperse	*
14:329.4	Wrongful Use of Public Property	*
14:329.5	Interference with Education Process	*
14:356	Sheriffs, etc., Solicitation of Legal Business	*
14:368	Failure to Register as Communist; Rules	*
14:388	False Statements in Affidavit as Perjury	*
14:390.2	Dissemination/Storage of Communist Propaganda	*



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14:402(A-D)(1-5), (E)(4-6)	Contraband; Taking to and from Penal Institutions	6
14:402(A-D)(6-8), (E)(1-3)	Contraband; Taking to and from Penal Institutions	8
14:402.1	Taking of Contraband to State-Owned Hospitals	8
14:403.2	Abuse and Neglect of Adults	*
14:404	Self-mutilation by a Prisoner	*
14:501	Killing or Injuring a Person while Hunting	*
14:511	Loan Sharking	*
14:512	Aggravated Loan Sharking	*
40:966(A)(1)	Manufacture/Distribution of Drugs (Sched. I, Narcotic)	0
40:966(A)(1)	Possession with Intent to Distribute (Sched. I, Narcotic)	0
40:966(A)(1)	Manufacture/Distribution of Drugs (Sched. I, Non-narcotic and Non-marijuana)	2
40:966(A)(1)	Possession with Intent to Distribute (Sched. I, Non-narcotic and Non-marijuana)	3
40:966(A)(1)	Manufacture/Distribution of Marijuana	4
40:966(A)(1)	Possession with Intent to Distribute Marijuana	4
40:966(C)(1)	Possession of Drugs (Sched. I, Narcotic)	6
40:966(C)(2,3)	Possession of Drugs (Sched. I, Non-narcotic or Non-marijuana)	7
40:966(D)	Simple Possession of Marijuana (Second Offense)	9
40:966(E)(3)	Possession of 10,000 lbs or more of Marijuana	2
40:966(E)(2)	Possession of 2,000 lbs or more but less than 10,000 lbs of Marijuana	3
40:966(E)(1)	Possession of 60 lbs or more but less than 2,000 lbs of Marijuana	4
40:967(A)(1)	Manufacture/Distribution of Drugs (Sched. II, Narcotic)	2
40:967(A)(1)	Possession with Intent to Distribute (Sched. II, Narcotic)	3
40:967(A)(1)	Manufacture/distribution of Drugs (Sched. II, Non-narcotic)	3
40:967(A)(1)	Possession with Intent to Distribute (Sched. II, Non-narcotic)	4
40:967(C)	Possession of Drugs (Sched. II, Narcotic)	5
40:967(C)	Possession of Drugs (Sched. II, Non-narcotic)	8
40:967(F)(1)(c)	Possession of 400 or more grams of Cocaine (Detectable amount)	1
40:967(F)(1)(b)	Possession of more than 200 but less than 400 grams of Cocaine (Detectable amount)	2
40:967(F)(1)(a)	Possession of more than 28 but less than 200 grams of Cocaine (Detectable amount)	3
40:967(F)(2)(c)	Possession of 400 or more grams of Amphetamine or Methamphetamine (Detectable amount)	1
40:967(F)(2)(b)	Possession of more than 200 but less than 400 grams of Amphetamine or Methamphetamine (Detectable amount)	2
40:967(F)(2)(a)	Possession of more than 28 but less than 200 grams of Amphetamine or Methamphetamine (Detectable amount)	3
40:968(A)(1)	Manufacture/Distribution of Drugs (Sched. III)	3
40:968(A)(1)	Possession with Intent to Distribute (Sched. III)	4
40:968(C)	Possession of Drugs (Sched. III)	8
40:969(A)(1)	Manufacture/Distribution of Drugs (Sched. IV)	3
40:969(A)(1)	Possession with Intent to Distribute (Sched. IV)	4
40:969(C)	Possession of Drugs (Sched. IV)	8
40:970(A)(1)	Manufacture/Distribution of Drugs (Sched. V)	4
40:970(A)(1)	Possession with Intent to Distribute (Sched. V)	5

CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT

40:970(C)	Possession of Drugs (Sched. V)	9
40:971	Obtaining Drugs by Fraud	4
40:981	Distribution of Drugs to a Child (Sched. I, Narcotic)	0
40:981	Distribution of Drugs to a Child (Sched. I, Non-narcotic and Non-marijuana or Sched. II, Narcotic)	2
40:981	Distribution of Drugs to a Child (Sched. II, Non-narcotic or Sched. III or Sched. IV or Marijuana)	3
40:981	Distribution of Drugs to a Child (Sched. V)	4
40:981.1	Distribution to a Student	*
40:981.2	Distribution of Drugs using a Child (Sched. I, Narcotic)	0
40:981.2	Distribution of Drugs using a Child (Sched. I, Non-narcotic and Non-marijuana or Sched. II, Narcotic)	2
40:981.2	Distribution of Drugs using a Child (Sched. II, Non-narcotic or Sched. III or Sched. IV or Marijuana)	3
40:981.2	Distribution of Drugs using a Child (Sched. V)	4
40:981.3	Drug Free Zone: 40:966(A)(1) - Manufacture/Distribution of Drugs (Sched. I, Narcotic)	0
40:981.3	Drug Free Zone: 40:966(A)(1) - Possession with Intent to Distribute (Sched. I, Narcotic)	0
40:981.3	Drug Free Zone: 40:966(A)(1) - Manufacture/Distribution of Drugs (Sched. I, Non-Narcotic and Non-marijuana)	1
40:981.3	Drug Free Zone: 40:966(A)(1) - Possession with Intent to Distribute (Sched. I, Non-Narcotic and Non-marijuana)	2
40:981.3	Drug Free Zones: 40:966(A)(1) - Manufacture/Distribution of Marijuana	2
40:981.3	Drug Free Zones: 40:966(A)(1) - Possession of Marijuana with Intent to Distribute	4
40:981.3	Drug Free Zones: 40:966(C) – Possession of Drugs (Sched. I, Narcotic)	4
40:981.3	Drug Free Zones: 40:966(C)(2,3) - Possession of Drugs (Sched. I, Non-narcotic or Non-marijuana)	5
40:981.3	Drug Free Zones: 40:966(D) – Simple Possession of Marijuana (Second Offense)	7
40:981.3	Drug Free Zones: 40:966(E)(1) - Possession of 60 lbs or more but less than 2,000 lbs of Marijuana	4
40:981.3	Drug Free Zones: 40:966(E)(2) - Possession of 2,000 lbs or more but less than 10,000 of Marijuana	2
40:981.3	Drug Free Zones: 40:966(E)(3) - Possession of 10,000 lbs or more of Marijuana	1
40:981.3	Drug Free Zones: 40:967(A)(1) - Manufacture/Distribution of Drugs (Sched. II, Narcotic)	1
40:981.3	Drug Free Zones: 40:967(A)(1) - Possession with Intent to Distribute (Sched. II, Narcotic)	2
40:981.3	Drug Free Zones: 40:967(A)(1) - Manufacture/Distribution of Drugs (Sched. II, Non-narcotic)	2
40:981.3	Drug Free Zones: 40:967(A)(1) - Possession with Intent to Distribute (Sched. II, Non-narcotic)	3
40:981.3	Drug Free Zones: 40:967(C) – Possession of Drugs (Sched. II, Narcotic)	5
40:981.3	Drug Free Zones: 40:967(C) – Possession of Drugs (Sched. II, Non-narcotic)	6
40:981.3	Drug Free Zones: 40:968(A)(1) - Manufacture/Distribution of Drugs (Sched. III)	2
40:981.3	Drug Free Zones: 40:968(A)(1) - Possession with Intent to Distribute (Sched. III)	3
40:981.3	Drug Free Zones: 40:968(C) – Possession of Drugs (Sched. III)	6

40:981.3	Drug Free Zones: 40:969(A)(1) - Manufacture/Distribution of Drugs (Sched. IV)	2
40:981.3	Drug Free Zones: 40:969(A)(1) - Possession with Intent to Distribute (Sched. IV)	3
40:981.3	Drug Free Zones: 40:969(C) – Possession of Drugs (Sched. IV)	6
40:981.3	Drug Free Zones: 40:970(A)(1) - Manufacture/Distribution of Drugs (Sched. V)	3
40:981.3	Drug Free Zones: 40:970(A)(1) - Possession with Intent to Distribute (Sched. V)	4
40:981.3	Drug Free Zones: 40:970(C) – Possession of Drugs (Sched. V)	7
<i>Note:</i> This listing of statutory felony offenses is for convenience in cross-referencing to the Crime Seriousness Ranking Tables ' 401.A and C; it is not official nor is it intended to be used in place of ' 401.A and C.		

## C. Ranked Felonies in Alphabetical Order

Offense	R.S. No.	Grid Level
+ One level below the crime seriousness level of the completed offense		
Accessory After the Fact (Any felony)	14:25	6
Access Device Fund	14:70.4	7
Aggravated Arson	14:51	3
Aggravated Battery	14:34	2
Aggravated Burglary	14:60	1
Aggravated Crime Against Nature	14:89.1	1
Aggravated Criminal Damage to Property	14:55	3
Aggravated Escape (Type I: Foreseeable danger to human life)	14:110(C)	3
Aggravated Kidnaping	14:44	0
Aggravated Oral Sexual Battery (Type I: Force or threat of force, or 2 or more offenders)	14:43.4(A)(1-3,5)	1
Aggravated Oral Sexual Battery (Type II: Victim is under 12 yrs)	14:43.4(A)(4)	3
Aggravated Rape	14:42	0
Aggravated Sexual Battery	14:43.2	1
Armed Robbery	14:64	1
Arson with Intent to Defraud	14:53	7
Assisting Escape	14:111	6
Assault by Drive-by Shooting	14:37.1	3
Attempt	14:27	+
Avoiding Payment of Telecommunication Services	14:221	7
Battery of a Police Officer (Type I: Serious bodily injury and offender is under jurisdiction and custody of Department of Public Safety and Corrections)	14:34.2(B)	3
Battery of a Police Officer (Type II: No serious bodily injury and offender is under jurisdiction and custody of Department of Public Safety and Corrections)	14:34.2(B)	5
Carjacking	14:64.2	1
Carnal Knowledge of a Juvenile	14:80	4
Carrying a Firearm by a Student or Non-student on School Property or Firearm-free Zone	14:95.2	4
Computer Fraud	14:73.5	7
Contraband; Taking to and from Penal Institutions	14:402(A -D)(1-5), (E)(4-6)	6

CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT

Contraband; Taking to and from Penal Institutions	14:402(D)(6-8), (E)(1-3)	8
Contributing to the Delinquency of Juveniles (Perform any sexually immoral act)	14:92(A)(7)	5
Contributing to the Delinquency of Juveniles (Become involved in commission of felony)	14:92(A)(11), (E)	6
Corrupt Influencing	14:120	6
Crime Against Nature	14:89	9
Criminal Conspiracy	14:26	+
Criminal Damage of a Pipeline Facility (Type I: Foreseeable danger to human life)	14:56.2(D)	4
Criminal Damage of a Pipeline Facility (Type II: No foreseeable danger to human life)	14:56.2(C)	6
Criminal Damage to Coin-Operated Device	14:56.1	8
Cruelty to Juveniles (Type I: Intentional injury to victim)	14:93	2
Cruelty to Juveniles (Type II: Criminally negligent or neglect)	14:93	5
Cruelty to the Infirm (Type I: Intentional injury to victim)	14:93.3	2
Cruelty to the Infirm (Type II: Criminally negligent or neglect)	14:93.3	5
Damage to Property with Intent to Defraud	14:57	7
Distribution of Drugs to a Child (Sched. I, Narcotic)	40:981	0
Distribution of Drugs to a Child (Sched. I, Non-narcotic and Non-marijuana or Sched. II, Narcotic)	40:981	2
Distribution of Drugs to a Child (Sched. I, Non-narcotic or Sched. III or Sched. IV or Marijuana)	40:981	3
Distribution of Drugs to a Child (Sched. V)	40:981	4
Distribution of Drugs to a Child (Sched. I, Narcotic)	40:981.2	0
Distribution of Drugs using a Child (Sched. I, Non-narcotic and Non-marijuana or Sched. II, Narcotic)	40:981.2	2
Distribution of Drugs using a Child (Sched. I, Non-narcotic or Sched. III or Sched. IV or Marijuana)	40:981.2	3
Distribution of Drugs using a Child (Sched. V)	40:981.2	4
Dogfighting	14:102.5	8
Drug Free Zones: 40:966(A)(1) - Manufacture/Distribution of Drugs (Sched. I, Narcotic)	40:981.3	0
Drug Free Zones: 40:966(A)(1) - Manufacture/Distribution of Drugs (Sched. I, Non-narcotic and Non-marijuana)	40:981.3	1
Drug Free Zones: 40:966(A)(1) - Manufacture/Distribution of Marijuana	40:981.3	2
Drug Free Zones: 40:966(A)(1) - Possession with Intent to Distribute (Sched. I, Narcotic)	40:981.3	0
Drug Free Zones: 40:966(A)(1) - Possession with Intent to Distribute (Sched. I, Non-narcotic and Non-marijuana)	40:981.3	2
Drug Free Zones: 40:966(A)(1) - Possession with Intent to Distribute Marijuana (Amount is less than 1 plant)	40:981.3	5
Drug Free Zones: 40:966(C)(1) - Possession of Drugs (Sched. I, Narcotic)	40:981.3	4
Drug Free Zones: 40:966(C)(2,3) - Possession of Drugs (Sched. I, Non-narcotic or Non-marijuana)	40:981.3	5
Drug Free Zones: 40:966(A)(1) - Possession of Marijuana with Intent to Distribute	40:981.3	4
Drug Free Zones: 40:966(D) - Simple Possession of Marijuana (Second offense)	40:981.3	7

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Drug Free Zones: 40:966(E)(1) - Possession of 60 lbs or more but less than 2,000 lbs or Marijuana	40:981.3	4
Drug Free Zones: 40:966(E)(2) - Possession of 2,000 lbs or more but less than 10,000 lbs of Marijuana	40:981.3	2
Drug Free Zones: 40:966(E)(3) - Possession of 10,000 lbs or more of Marijuana	40:981.3	1
Drug Free Zones: 40:967(A)(1) - Manufacture/Distribution of Drugs (Sched. II, Narcotic)	40:981.3	1
Drug Free Zones: 40:967(A)(1) - Manufacture/Distribution of Drugs (Sched. II, Non-narcotic)	40:981.3	2
Drug Free Zones: 40:967(A)(1) - Possession with Intent to Distribute (Sched. II, Narcotic)	40:981.3	2
Drug Free Zones: 40:967(A)(1) - Possession with Intent to Distribute (Sched. II, Non-narcotic)	40:981.3	3
Drug Free Zones: 40:967(C) - Possession of Drugs (Sched. II, Narcotic)	40:981.3	5
Drug Free Zones: 40:967(C) - Possession of Drugs (Sched. II, Non-narcotic)	40:981.3	6
Drug Free Zones: 40:968(A)(1) - Manufacture/Distribution of Drugs (Sched. III)	40:981.3	2
Drug Free Zones: 40:968(A)(1) - Possession with Intent to Distribute (Sched. III)	40:981.3	3
Drug Free Zones: 40:968(C) - Possession of Drugs (Sched. III)	40:981.3	6
Drug Free Zones: 40:969(A)(1) - Manufacture/Distribution of Drugs (Sched. IV)	40:981.3	2
Drug Free Zones: 40:969(A)(1) - Possession with Intent to Distribute (Sched. IV)	40:981.3	3
Drug Free Zones: 40:969(C) - Possession of Drugs (Sched. IV)	40:981.3	6
Drug Free Zones: 40:970(A)(1) - Manufacture/Distribution of Drugs (Sched. V)	40:981.3	3
Drug Free Zones: 40:970(A)(1) - Possession with Intent to Distribute (Sched. V)	40:981.3	4
Drug Free Zones: 40:970(C) - Possession of Drugs (Sched. V)	40:981.3	7
Encouraging or Contributing to Child Delinquency	14:92.1	9
Enticing Persons into Prostitution	14:86	6
Extortion	14:66	4
False Imprisonment with a Dangerous Weapon	14:46.1	3
False Personation of a Peace Officer	14:112.1	6
First Degree Murder	14:30	0
First Degree Robbery	14:64.1	2
Fishing or Hunting Contest Fraud	14:214	7
Forcible Rape	14:42.1	1
Forgery	14:72	5
Illegal Carrying of Weapons	14:95	6
Illegal Possession of Stolen Goods (Type I: Value is \$500 or more)	14:69	5
Illegal Possession of Stolen Goods (Type II: Value is \$100 or more but less than \$500)	14:69	7
Illegal Use of Counterfeit Trademark	14:229	7
Illegal Use of Weapons or Dangerous Instrumentalities	14:94	7
Improper Telephone Communications (Second offense)	14:285	8
Incest (Type I: Relationship is father, mother, brother or sister)	14:78(A), (D)(1)	5
Incest (Type II: Relationship is not father, mother, brother or sister)	14:78(A), (D)(2)	6
Inciting a Felony (any felony)	14:28	7

CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT

Inciting to Riot (Type I: Injury to victim resulting in death)	14:329.2 329.7(C)	1
Inciting to Riot (Type II: Serious bodily injury or property damage \$5,000 or more)	14:329.2 329.7(B)	6
Indecent Behavior with Juveniles	14:81	5
Institutional Vandalism (Type I: Damage is \$50,000 or more)	14:225(A), (B)(3)	3
Institutional Vandalism (Type II: Damage is \$500 or more but less than \$50,000)	14:225(A), (B)(2)	6
Intentional Exposure of Aids Virus	14:43.5	4
Intimidating, Impeding or Injuring Witnesses	14:129.1	6
Issuing Worthless Checks (Type I: Value is \$500 or more)	14:71	5
Issuing Worthless Checks (Type II: Value is \$100 or more but less than \$500)	14:71	7
Jumping Bail	14:110.1	7
Jury Tampering	14:129	6
Looting	14:62.5	3
Malfeasance in Office	14:134	6
Manslaughter	14:31	1
Manufacture/Distribution of Drugs (Sched. I, Narcotic)	40:966(A)(1)	0
Manufacture/Distribution of Drugs (Sched. I, Non-narcotic and Non-marijuana)	40:966(A)(1)	2
Manufacture/Distribution of Drugs (Sched. II, Narcotic)	40:967(A)(1)	2
Manufacture/Distribution of Drugs (Sched. II, Non-narcotic)	40:967(A)(1)	3
Manufacture/Distribution of Drugs (Sched. III)	40:968(A)(1)	3
Manufacture/Distribution of Drugs (Sched. IV)	40:969(A)(1)	3
Manufacture/Distribution of Drugs (Sched. V)	40:970(A)(1)	4
Manufacture/Distribution of Marijuana	40:966(A)(1)	4
Medicaid Fraud	14:70.1	7
Mingling Harmful Substances	14:38.1	6
Molestation of a Juvenile	14:81.2	3
Negligent Homicide	14:32	4
Obscenity (Type I: Persons under 17 yrs of age)	14:106(A)(1-3), (G)(4)	6
Obscenity	14:106	8
Obstruction of Justice (Type I: Obstruction in a capital or life imprisonment case)	14:130.1(A), (B)(1)	2
Obstruction of Justice (Type II: Obstruction in felony case necessarily punishable at hard labor for less than life)	14:130.1(A), (B)(2)	3
Obstruction of Justice (Type III: Obstruction in other criminal proceedings)	14:130.1(A), (B)(3)	6
Obtaining Drugs by Fraud	14:971	4
Obtaining Rented or Leased Motor Vehicles by False Representation	14:220	7
Offense Against Computer Equipment and Supplies	14:73.3	6
Offense Against Intellectual Property (Type I: Value is \$500 or more)	14:73.2	5
Offense Against Intellectual Property (Type II: Value is \$100 or more but less than \$500)	14:73.2	7
Operating a Vehicle while Intoxicated (Multiple offense)	14:98	7
Operating a Vehicle while Intoxicated (Child Endangerment Law)	14:98(J)	5

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Oral Sexual Battery (Type I: Compulsion by fear of bodily harm)	14:43.3	3
Oral Sexual Battery (Type II: Victim is under 15 yrs)	14:43.3	4
Pandering (Force or threats, or parental consent)	14:84(1,3,5)	6
Pandering	14:84(1-4,6)	7
Perjury	14:123	6
Pornography Involving Juveniles	14:81.1	3
Possession of 10,000 lbs or more of Marijuana	40:966(E)(3)	2
Possession of 2,000 lbs or more but less than 10,000 lbs of Marijuana	40:966(E)(2)	3
Possession of 60 lbs or more but less than 2,000 lbs of Marijuana	40:966(E)(1)	4
Possession of 400 or more grams of Cocaine (Detectable amount)	40:967(F)(1)(c)	1
Possession of more than 200 but less than 400 grams of Cocaine (Detectable amount)	40:967(F)(1)(b)	2
Possession of more than 28 but less than 200 grams of Cocaine (Detectable amount)	40:967(F)(1)(a)	3
Possession of 400 or more grams of Amphetamine or Methamphetamine (Detectable amount)	40:967(F)(2)(c)	1
Possession of more than 200 but less than 400 grams of Amphetamine or Methamphetamine (Detectable amount)	40:967(F)(2)(b)	2
Possession of more than 28 but less than 200 grams of Amphetamine or Methamphetamine (Detectable amount)	40:967(F)(2)(a)	3
Possession of Drugs (Sched. I, Narcotic)	40:966(C)(1)	6
Possession of Drugs (Sched. I, Non-narcotic or Non-marijuana)	40:966(C)(2,3)	7
Possession of Drugs (Sched. II, Narcotic)	40:967(C)	5
Possession of Drugs (Sched. II, Non-narcotic)	40:967(C)	8
Possession of Drugs (Sched. III)	40:968(C)	8
Possession of Drugs (Sched. IV)	40:969(C)	8
Possession of Drugs (Sched. V)	40:970(C)	9
Possession with Intent to Distribute (Sched. I, Narcotic)	40:966(A)(1)	0
Possession with Intent to Distribute (Sched. I, Non-narcotic and Non-marijuana)	40:966(A)(1)	3
Possession with Intent to Distribute Marijuana	40:966(A)(1)	4
Possession with Intent to Distribute (Sched. II, Narcotic)	40:967(A)(1)	3
Possession with Intent to Distribute (Sched. II, Non-narcotic)	40:967(A)(1)	4
Possession with Intent to Distribute (Sched. III)	40:968(A)(1)	4
Possession with Intent to Distribute (Sched. IV)	40:969(A)(1)	4
Possession with Intent to Distribute (Sched. V)	40:970(A)(1)	5
Possession of Firearm or Carrying Concealed Weapon by a Person Convicted of Certain Felonies	14:95.1	5
Promoting Prostitution	14:83.2	9
Prostitution (Second offense)	14:82	9
Prostitution Involving a Person Under 17	14:82.1	5
Public Bribery	14:118	6
Public Contract Fraud	14:140	8
Public Intimidation	14:122	6
Public Payroll Fraud	14:138	8
Purse Snatching	14:65.1	3

## CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT

Riot (Type I: Participating in riot with injury to victim resulting in death)	14:329.1 329.7(C)	3
Riot (Type II: Participating in riot resulting in serious bodily injury or property damage \$5,000 or more)	14:329.1 329.7(B)	8
Second Degree Battery	14:34.1	3
Second Degree Kidnaping	14:44.1	1
Second Degree Murder	14:30.1	0
Sexual Battery (Type I: Compulsion by fear of bodily harm)	14:43.1	3
Sexual Battery (Type II: Victim is under 15 yrs)	14:43.1	4
Simple Arson (Type I: Damage is \$500 or more)	14:52	6
Simple Arson (Type II: Damage is less than \$500)	14:52	8
Simple Burglary	14:62	4
Simple Burglary of a Pharmacy	14:62.1	4
Simple Burglary of an Inhabited Dwelling	14:62.2	3
Simple Criminal Damage to Property (Type I: Damage is \$50,000 or more)	14:56	4
Simple Criminal Damage to Property (Type II: Property damage is \$500 or more but less than \$50,000)	14:56	6
Simple Escape (Type II: Intentional escape)	14:110(A)(1), (B)(3)	6
Simple Escape (Type III: Failure to return)	14:110(A)(2,3) (B)(1,2)	9
Simple Kidnaping	14:45	4
Simple Possession of Marijuana (Second Offense)	40:966(D)	9
Simple Rape	14:43	2
Simple Robbery	14:65	3
Solicitation for Murder	14:28.1	4
Taking of Contraband to State-Owned Hospitals	14:402.1	8
Terrorizing	14:40.1	7
Theft (Type I: Value is \$500 or more)	14:67	5
Theft (Type II: Value is \$100 or more but less than \$500)	14:67	7
Theft of Crawfish (Type I: Value is \$500 or more)	14:67.5	5
Theft of Crawfish (Type II: Value is \$100 or more but less than \$500)	14:67.5	7
Theft of Domesticated Fish from a Fish Farm (Type I: Value is \$500 or more)	14:67.4	5
Theft of Domesticated Fish from a Fish Farm (Type II: Value is \$100 or more but less than \$500)	14:67.4	7
Theft of Goods (Type I: Value is \$500 or more)	14:67.10	5
Theft of Goods (Type II: Value is \$100 or more but less than \$500)	14:67.10	7
Theft of Livestock	14:67.1	7
Theft of Oil and Gas Equipment (Type I: Value is \$500 or more)	14:67.9	5
Theft of Oil and Gas Equipment (Type II: Value is \$100 or more but less than \$500)	14:67.9	7
Theft of Oilfield Geological Survey, Seismograph, and Production Maps	14:67.8	7
Theft of Petroleum Products	14:67.7	7
Theft of Utility Services (Second offense)	14:67.6	7
Unauthorized Entry of a Place of Business	14:62.4	6
Unauthorized Entry of an Inhabited Dwelling	14:62.3	5



Unauthorized Use of a Movable (Value more than \$1,000)	14:68	7
Unauthorized Use of Access Card (Type I: Value is \$500 or more)	14:67.3	5
Unauthorized Use of Access Card (Type II: Value is \$100 or more but less than \$500)	14:67.3	7
Vehicular Homicide	14:32.1	3

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:321-329.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, Louisiana Sentencing Commission, LR 18:50 (January 1992), amended LR 18:961 (September 1992), LR 19:892 (July 1993), LR 20:788 (July 1994).

#### §402. Criminal History Tables

A. Criminal History Index Score for Prior Felony Convictions

Crime Seriousness Level for Prior Felony Conviction	Criminal History Index Points
Level 0	5 Points
Level 1	3 Points
Level 2	3 Points
Level 3	2 Points
Level 4	2 Points
Level 5	2 Points
Level 6	1 Points
Level 7	1 Points
Level 8	1 Points
Level 9	1 Points

B. Criminal History Index Score for Prior Misdemeanor Convictions

All Eligible Misdemeanors .25 Points  
Maximum Limit on the number of Misdemeanor Points 1 Point

C. Criminal History Index Score for Prior Adjudications of Delinquency

Crime Seriousness Level of the Prior Adjudication of Delinquency	Criminal History Index Points
Level 0	3 Points
All Other Levels (Felony)	1 Point
All Adjudications of Delinquency based on a Misdemeanor	.25 Point Subject to the 1 Point Limit on Misdemeanors.

D. Crime Family Table

LEGEND	
Keyword	Offense Category
PERSON	Offenses Against the Person (Excluding Sex Offenses)
SEXADLT	Offenses Against the Person (Sex crimes excluding Children)
SEXCHLD	Offense Against the Person (Sex crimes affecting Children)
PROP-PERS	Offenses Against Property (Primary interest: Person)
PROP-EXCLPERS	Offenses Against Property (Excluding crimes with Person as Primary Interest)
INSTITUTE	Offenses Affecting Public Institutions
PUBLORDR	Offenses Affecting Public Order
PUBLMOR	Offenses Affecting Public Morals
FAMILY	Offenses Affecting the Family
DRUGS	Controlled Dangerous Substances Offenses

## CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT

Seriousness Ranking Felonies by Crime Family			
Keyword	R.S. No.	Offense	Grid Level
PERSON	14:30	First Degree Murder	0
PERSON	14:30.1	Second Degree Murder	0
PERSON	14:44	Aggravated Kidnaping	0
PERSON	14:31	Manslaughter	1
PERSON	14:44.1	Second Degree Kidnaping	1
PERSON	14:34	Aggravated Battery	2
PERSON	14:46.1	False Imprisonment with a Dangerous Weapon	3
PERSON	14:32.1	Vehicular Homicide	3
PERSON	14:34.1	Second Degree Battery	3
PERSON	14:34.2(B)	Battery of a Police Officer (Type I: Serious bodily injury and offender is under jurisdiction and custody of Department of Public Safety and Corrections)	3
PERSON	14:37.1	Assault by Drive-by Shooting	3
PERSON	14:28.1	Solicitation for Murder	4
PERSON	14:32	Negligent Homicide	4
PERSON	14:45	Simple Kidnaping	4
PERSON	14:43.5	Intentional Exposure of Aids Virus	4
PERSON	14:34.2(B)	Battery of a Police Officer (Type II: No serious bodily injury and offender is under jurisdiction and custody of Department of Public Safety and Corrections)	5
PERSON	14:38.1	Mingling Harmful Substances	6
PERSON	14:40.1	Terrorizing	7
SEXADLT	14:42	Aggravated Rape	0
SEXADLT	14:89.1	Aggravated Crime Against Nature	1
SEXADLT	14:43.2	Aggravated Sexual Battery	1
SEXADLT	14:42.1	Forcible Rape	1
SEXADLT	14:43(A) (1-3,5)	Aggravated Oral Sexual Battery (Type I: Force or threat of force, or 2 or more offenders)	1
SEXADLT	14:43	Simple Rape	2
SEXADLT	14:43.1	Sexual Battery (Type I: Compulsion by fear of bodily harm)	3
SEXADLT	14:43.3	Oral Sexual Battery (Type I: Compulsion by fear of bodily harm)	3
SEXCHLD	14:43.4(A)(4)	Aggravated Oral Sexual Battery (Type II: Victim is under 12 yrs)	3
SEXCHLD	14:81.2	Molestation of a Juvenile	3
SEXCHLD	14:43.1	Sexual Battery (Type II: Victim is under 15 yrs)	4
SEXCHLD	14:43.3	Oral Sexual Battery (Type II: Victim is under 15 yrs)	4
SEXCHLD	14:80	Carnal Knowledge of a Juvenile	4
SEXCHLD	14:81	Indecent Behavior with Juveniles	5
SEXCHLD	14:92(A)(7)	Contributing to the Delinquency of Juveniles (Perform any sexually immoral act)	5
PROP-PERS	14:60	Aggravated Burglary	1

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PROP-PERS	14:64	Armed Robbery	1
PROP-PERS	14:64.2	Carjacking	1
PROP-PERS	14:64.1	First Degree Robbery	2
PROP-PERS	14:51	Aggravated Arson	3
PROP-PERS	14:55	Aggravated Criminal Damage to Property	3
PROP-PERS	14:62.2	Simple Burglary of an Inhabited Dwelling	3
PROP-PERS	14:65	Simple Robbery	3
PROP-PERS	14:65.1	Purse Snatching	3
PROP-PERS	14:66	Extortion	4
PROP-PERS	14:62.3	Unauthorized Entry of an Inhabited Dwelling	5
PROP-EXCLPERS	14:62.5	Looting	3
PROP-EXCLPERS	14:225(A), (B)(3)	Institutional Vandalism (Type I: Damage is more than \$50,000)	3
PROP-EXCLPERS	14:56	Simple Criminal Damage to Property (Type I: Damage is \$50,000 or more)	4
PROP-EXCLPERS	14:56.2(D)	Criminal Damage of a Pipeline Facility (Type I: Foreseeable danger to human life)	4
PROP-EXCLPERS	14:62.1	Simple Burglary of a Pharmacy	4
PROP-EXCLPERS	14:62	Simple Burglary	4
PROP-EXCLPERS	14:67	Theft (Type I: Value is \$500 or more)	5
PROP-EXCLPERS	14:67.3	Unauthorized Use of Access Card (Type I: Value is \$500 or more)	5
PROP-EXCLPERS	14:67.4	Theft of Domesticated Fish from a Fish Farm (Type I: Value is \$500 or more)	5
PROP-EXCLPERS	14:67.5	Theft of Crawfish (Type I: Value is \$500 or more)	5
PROP-EXCLPERS	14:67.9	Theft of Oil and Gas Equipment (Type I: Value is \$500 or more)	5
PROP-EXCLPERS	14:67.10	Theft of Goods (Type I: Value is \$500 or more)	5
PROP-EXCLPERS	14:69	Illegal Possession of Stolen Goods (Type I: Value is \$500 or more)	5
PROP-EXCLPERS	14:71	Issuing Worthless Checks (Type I: Value is \$500 or more)	5
PROP-EXCLPERS	14:72	Forgery	5
PROP-EXCLPERS	14:73.2	Offense Against Intellectual Property (Type I: Value is \$500 or more)	5
PROP-EXCLPERS	14:225(A), (B)(2)	Institutional Vandalism (Type II: Damage is \$500 or more but less than \$50,000)	6
PROP-EXCLPERS	14:56.2(C)	Criminal Damage of a Pipeline Facility (Type II: No foreseeable danger to human life)	6
PROP-EXCLPERS	14:56	Simple Criminal Damage to Property (Type II: Property damage is \$500 or more but less than \$50,000)	6
PROP-EXCLPERS	14:73.3	Offense Against Computer Equipment and Supplies	6
PROP-EXCLPERS	14:62.4	Unauthorized Entry of a Place of Business	6
PROP-EXCLPERS	14:52	Simple Arson (Type I: Damage is \$500 or more)	6
PROP-EXCLPERS	14:214	Fishing or Hunting Contest Fraud	7
PROP-EXCLPERS	14:67.6	Theft of Utility Services (Second offense)	7
PROP-EXCLPERS	14:69	Illegal Possession of Stolen Goods (Type II: Value is \$100 or more but less than \$500)	7
PROP-EXCLPERS	14:73.2	Offense Against Intellectual Property (Type II: Value is \$100 or more but less than \$500)	7

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PROP-EXCLPERS	14:67.3	Unauthorized Use of Access Card (Type II: Value is \$100 or more but less than \$500)	7
PROP-EXCLPERS	14:67.4	Theft of Domesticated Fish from a Fish Farm (Type II: Value is \$100 or more but less than \$500)	7
PROP-EXCLPERS	14:70.1	Medicaid Fraud	7
PROP-EXCLPERS	14:67.8	Theft of Oilfield Geological Survey, Seismograph, and Production Maps	7
PROP-EXCLPERS	14:221	Avoiding Payment of Telecommunication Services	7
PROP-EXCLPERS	14:71	Issuing Worthless Checks (Type II: Value is \$100 or more but less than \$500)	7
PROP-EXCLPERS	14:67.1	Theft of Livestock	7
PROP-EXCLPERS	14:68	Unauthorized Use of a Movable (Value over \$1,000)	7
PROP-EXCLPERS	14:229	Illegal Use of Counterfeit Trademark	7
PROP-EXCLPERS	14:67.7	Theft of Petroleum Products	7
PROP-EXCLPERS	14:73.5	Computer Fraud	7
PROP-EXCLPERS	14:70.4	Access Device Fraud	7
PROP-EXCLPERS	14:67.5	Theft of Crawfish (Type II: Value is \$100 or more but less than \$500)	7
PROP-EXCLPERS	14:53	Arson with Intent to Defraud	7
PROP-EXCLPERS	14:67.10	Theft of Goods (Type II: Value is \$100 or more but less than \$500)	7
PROP-EXCLPERS	14:67.9	Theft of Oil and Gas Equipment (Type II: Value is \$100 or more but less than \$500)	7
PROP-EXCLPERS	14:67	Theft (Type II: Value is \$100 or more but less than \$500)	7
PROP-EXCLPERS	14:220	Obtaining Rented or Leased Motor Vehicles by False Representation	7
PROP-EXCLPERS	14:57	Damage to Property with Intent to Defraud	7
PROP-EXCLPERS	14:56.1	Criminal Damage to Coin-Operated Device	8
PROP-EXCLPERS	14:52	Simple Arson (Type II: Damage is less than \$500)	8
INSTITUTE	14:130.1(A), (B)(1)	Obstruction of Justice (Type I: Obstruction in a capital or life imprisonment case)	2
INSTITUTE	14:130.1(A), (B)(1)	Obstruction of Justice (Type II: Obstruction in felony case necessarily punishable at hard labor for less than life)	3
INSTITUTE	14:123	Perjury	6
INSTITUTE	14:134	Malfeasance in Office	6
INSTITUTE	14:129.1	Intimidating, Impeding or Injuring Witnesses	6
INSTITUTE	14:122	Public Intimidation	6
INSTITUTE	14:118	Public Bribery	6
INSTITUTE	14:120	Corrupt Influencing	6
INSTITUTE	14:129	Jury Tampering	6
INSTITUTE	14:130.1(A), (B)(3)	Obstruction of Justice (Type III: Obstruction in other criminal proceedings)	6
INSTITUTE	14:140	Public Contract Fraud	8
INSTITUTE	14:138	Public Payroll Fraud	8
PUBLORDR	14:329.2 329.7(C)	Inciting to Riot (Type I: Injury to victim resulting in death)	1
PUBLORDR	14:110(C)	Aggravated Escape (Type I: Foreseeable danger to human life)	3
PUBLORDR	14:329.1 329.7(C)	Riot (Type I: Participating in riot with injury to victim resulting in death)	3

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PUBLORDR	14:95.2	Carrying a Firearm by a Student or Non-Student on School Property or Firearm-free Zone	4
PUBLORDR	14:95.1	Possession of Firearm or Carrying Concealed Weapon by a Person Convicted of Certain Felonies	5
PUBLORDR	14:98(J)	Operating a Vehicle while Intoxicated (Child Endangerment Law)	5
PUBLORDR	14:95	Illegal Carrying of Weapons	6
PUBLORDR	14:106(A) (1-3), (G)(4)	Obscenity (Type I: Persons under 17 yrs of age)	6
PUBLORDR	14:110(A)(1), (B)(3)	Simple Escape (Type II: Persons Intentional escape)	6
PUBLORDR	14:111	Assisting Escape	6
PUBLORDR	14:112.1	False Personation of a Peace Officer	6
PUBLORDR	14:329.2 329.7(B)	Inciting to Riot (Type II: Serious bodily injury or property damage \$5,000 or more)	6
PUBLORDR	14:402(A -D)(1-5), (E)(4-6)	Contraband; Taking to and from Penal Institutions	6
PUBLORDR	14:94	Illegal Use of Weapons or Dangerous Instrumentalities	7
PUBLORDR	14:98	Operating a Vehicle while Intoxicated (Multiple offense)	7
PUBLORDR	14:110.1	Jumping Bail	7
PUBLORDR	14:102.5	Dogfighting	8
PUBLORDR	14:402(D) (6-8), (E) (1-3)	Contraband; Taking to and from Penal Institutions	8
PUBLORDR	14:329.1 329.7(B)	Riot (Type II: Participating in a riot resulting in injury but not death)	8
PUBLORDR	14:106	Obscenity	8
PUBLORDR	14:402.1	Taking of Contraband to State-Owned Hospitals	8
PUBLORDR	14:110(A)(2,3), (B)(1,2)	Simple Escape (Type III: Failure to return)	9
PUBLMOR	14:93	Cruelty to Juveniles (Type I: Intentional Injury to victim)	2
PUBLMOR	14:93.3	Cruelty to the Infirm (Type I: Intentional Injury to victim)	2
PUBLMOR	14:81.1	Pornography Involving Juveniles	3
PUBLMOR	14:82.1	Prostitution Involving a Person Under 17	5
PUBLMOR	14:93	Cruelty to Juveniles (Type II: Criminally negligent or neglect)	5
PUBLMOR	14:93.3	Cruelty to the Infirm (Type II: Criminally negligent or neglect)	5
PUBLMOR	14:84(1,3,5)	Pandering (Force or threats, or parental consent)	6
PUBLMOR	14:86	Enticing Persons into Prostitution	6
PUBLMOR	14:92(A)(11), (E)	Contributing to the Delinquency of Juveniles (Become involved in commission of felony)	6
PUBLMOR	14:84(1-4,6)	Pandering	7
PUBLMOR	14:285	Improper Telephone Communications (Second offense)	8
PUBLMOR	14:82	Prostitution (Second offense)	9
PUBLMOR	14:83.2	Promoting Prostitution	9
PUBLMOR	14:89	Crime Against Nature	9
PUBLMOR	14:92.1	Encouraging or Contribution to Child Delinquency	9
FAMILY	14:78(A), (D)(1)	Incest (Type I: Relationship is father, mother, brother or sister)	5
FAMILY	14:78(A), (D)(2)	Incest (Type II: Relationship is not father, mother, brother or sister)	6

## CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT

DRUGS	40:981.3	Drug Free Zones: 40:966(A)(1) - Manufacture/Distribution of Drugs (Sched. I, Narcotic)	0
DRUGS	40:981.3	Drug Free Zones: 40:966(A)(1) - Possession with Intent to Distribute (Sched. I, Narcotic)	0
DRUGS	40:981	Distribution of Drugs to a Child (Sched. I, Narcotic)	0
DRUGS	40:981.2	Distribution of Drugs using a Child (Sched. I, Narcotic)	0
DRUGS	40:966(A)(1)	Manufacture/Distribution of Drugs (Sched. I, Narcotic)	0
DRUGS	40:966(A)(1)	Possession with Intent to Distribute (Sched. I, Narcotic)	0
DRUGS	40:981.3	Drug Free Zones: 40:966(E)(3) - Possession of 10,000 lbs or more of Marijuana	1
DRUGS	14:981.3	Drug Free Zones: 40:967(A)(1) - Manufacture/Distribution of Drugs (Sched. II, Narcotic)	1
DRUGS	14:981.3	Drug Free Zones: 40:966(A)(1) - Manufacture/Distribution of Drugs (Sched. I, Non-narcotic and Non-marijuana)	1
DRUGS	40:967(F)(1)(c)	Possession of 400 or more grams of Cocaine (Detectable amount)	1
DRUGS	40:967(F)(2)(c)	Possession of 400 or more grams of Amphetamine or Methamphetamine (Detectable amount)	1
DRUGS	40:981.3	Drug Free Zones: 40:967(A)(1) - Possession with Intent to Distribute (Sched. II, Narcotic)	2
DRUGS	40:981.3	Drug Free Zones: 40:966(A)(1) - Possession with Intent to Distribute (Sched. I, Non-narcotic and Non-marijuana)	2
DRUGS	40:981	Distribution of Drugs to a Child (Sched. I, Non-narcotic and Non-marijuana or Sched. II, Narcotic)	2
DRUGS	40:981.2	Distribution of Drugs using a Child (Sched. I, Non-narcotic and Non-marijuana or Sched. II, Narcotic)	2
DRUGS	40:981.3	Drug Free Zones: 40:966(A)(1) - Manufacture/Distribution of Marijuana	2
DRUGS	40:981.3	Drug Free Zones: 40:966(E)(2) - Possession of 2,000 lbs or more but less than 10,000 lbs of Marijuana	2
DRUGS	40:981.3	Drugs Free Zones: 40:968(A)(1) - Manufacture/Distribution of Drugs (Sched. III)	2
DRUGS	40:981.3	Drug Free Zones: 40:967(A)(1) - Manufacture/Distribution of Drugs (Sched. II, Non-narcotic)	2
DRUGS	40:981.3	Drug Free Zones: 40:969(A)(1) - Manufacture/Distribution of Drugs (Sched. IV)	2
DRUGS	40:967(A)(1)	Manufacture/Distribution of Drugs (Sched. II, Narcotic)	2
DRUGS	40:966(E)(3)	Possession of 10,00 lbs or more of Marijuana	2
DRUGS	40:966(A)(1)	Manufacture/Distribution of Drugs (Sched. I, Non-narcotic and Non-marijuana)	2
DRUGS	40:967(F)(1)(b)	Possession of more than 200 but less than 400 grams of Cocaine (Detectable amount)	2
DRUGS	40:967(F)(2)(b)	Possession of more than 200 but less than 400 grams of Amphetamine or Methamphetamine (Detectable amount)	3
DRUGS	40:966(A)(1)	Possession with Intent to Distribute (Sched. I, Non-narcotic and Non-marijuana)	3
DRUGS	40:967(A)(1)	Possession with Intent to Distribute (Sched. II, Narcotic)	3
DRUGS	40:981.3	Drug Free Zones: 40:968(A)(1) - Possession with Intent to Distribute (Sched. III)	3

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DRUGS	40:981.3	Drug Free Zones: 40:967(A)(1) - Possession with Intent to Distribute (Sched. II, Non-narcotic)	3
DRUGS	40:981.3	Drug Free Zones: 40:969(A)(1) - Possession with Intent to Distribute (Sched. IV)	3
DRUGS	40:981	Distribution of Drugs to a Child (Sched. II, Non-narcotic to Sched. III or Sched. IV or Marijuana)	3
DRUGS	40:981.2	Distribution of Drugs using a Child (Sched. II, Non-narcotic or Sched. III or Sched. IV or Marijuana)	3
DRUGS	40:968(A)(1)	Manufacture/Distribution of Drugs (Sched. III)	3
DRUGS	40:969(A)(1)	Manufacture/Distribution of Drugs (Sched. IV)	3
DRUGS	40:981.2	Distribution of Drugs using a Child (Sched. II, Non-narcotic or Sched. III or Sched. IV)	3
DRUGS	40:967(A)(1)	Manufacture/Distribution of Drugs (Sched. II, Non-narcotic)	3
DRUGS	40:981.3	Drug Free Zones: 40:970(A)(1) - Manufacture/Distribution of Drugs (Sched. V)	3
DRUGS	40:966(E)(2)	Possession of 2,000 lbs or more but less than 10,000 lbs of Marijuana	3
DRUGS	40:967(F)(1)(a)	Possession of more than 28 but less than 200 grams of Cocaine (Detectable amount)	3
DRUGS	40:967(F)(2)(a)	Possession of more than 28 but less than 200 grams of Amphetamine or Methamphetamine (Detectable amount)	3
DRUGS	40:981.3	Drug Free Zones: 40:970(A)(1) - Possession with Intent to Distribute (Sched. V)	4
DRUGS	40:966(A)(1)	Possession with Intent to Distribute Marijuana	4
DRUGS	40:967(A)(1)	Possession with Intent to Distribute (Sched. II, Non-narcotic)	4
DRUGS	40:968(A)(1)	Possession with Intent to Distribute (Sched. III)	4
DRUGS	40:969(A)(1)	Possession with Intent to Distribute (Sched. IV)	4
DRUGS	40:981.3	Drug Free Zones: 40:966(E)(1) - Possession of 60 lbs or more but less than 2,000 lbs of Marijuana	4
DRUGS	40:981.3	Drug Free Zones: 40:966(C)(1) - Possession of Drugs (Sched. I, Narcotic)	4
DRUGS	40:981.3	Drug Free Zones: 40:966(A)(1) - Possession of Marijuana with Intent to Distribute	4
DRUGS	14:970(A)(1)	Manufacture/Distribution of Drugs (Sched. V)	4
DRUGS	14:981	Distribution of Drugs to a Child (Sched. V)	4
DRUGS	40:981.2	Distribution of Drugs using a Child (Sched. V)	4
DRUGS	40:966(A)(1)	Manufacture/Distribution of Marijuana	4
DRUGS	40:971	Obtaining Drugs by Fraud	4
DRUGS	40:966(E)(1)	Possession of 60 lbs or more but less than 2,000 lbs of Marijuana	4
DRUGS	40:981.3	Drug Free Zones: 40:967(C) - Possession of Drugs (Sched. II, Narcotic)	5
DRUGS	40:967(C)	Possession of Drugs (Sched. II, Narcotic)	5
DRUGS	40:970(A)(1)	Possession with Intent to Distribute (Sched. V)	5
DRUGS	40:981.3	Drug Free Zones: 40:966(C)(2,3) - Possession of Drugs (Sched. I, Non-narcotic or Non-marijuana)	5
DRUGS	40:981.3	Drug Free Zones: 40:967(C) - Possession of Drugs (Sched. II, Non-narcotic)	6
DRUGS	40:981.3	Drug Free Zones: 40:969(C) - Possession of Drugs (Sched. III)	6
DRUGS	40:981.3	Drug Free Zones: 40:969(C) - Possession of Drugs (Sched. IV)	6

**CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT**

DRUGS	40:966(C)(1)	Possession of Drugs (Sched. I, Narcotic)	6
DRUGS	40:966(A)(1)	Manufacture/Distribution of Marijuana (Amount is less than 1 plant)	7
DRUGS	40:981.3	Drug Free Zones: 40:970(C) - Possession of Drugs (Sched. V)	7
DRUGS	40:966(C)(2,3)	Possession of Drugs (Sched. I, Non-narcotic or Non-marijuana)	7
DRUGS	40:981.3	Drug Free Zones: 40:966(D) - Simple Possession of Marijuana (Second offense)	7
DRUGS	40:968(C)	Possession of Drugs (Sched. III)	8
DRUGS	40:969(C)	Possession of Drugs (Sched. IV)	8
DRUGS	40:967(C)	Possession of Drugs (Sched. II, Non-narcotic)	8
DRUGS	40:970(C)	Possession of Drugs (Sched. V)	9
DRUGS	40:966(D)	Simple Possession of Marijuana (Second offense)	9

**E. Crime-Free Time**

<b>Amount of Crime-Free Time</b>	<b>Suggested Multiplication Factor</b>
Less than 5 years	1 (Full value)
5 years to 10 years	.75 (Reduced by one-fourth)
Over 10 years but less than 20 years	.50 (Reduced by one-half)
20 years or more	.10 (Reduced by 90%)

**F. Criminal History Index Classification System**

<b>Criminal History Index Score Range</b>	<b>Classification</b>	
5.0 +	Class A	Most Serious
4.0 - 4.9	Class B	
3.0 - 3.9	Class C	
2.0 - 2.9	Class D	
1.0 - 1.9	Class E	
.1 - .9	Class F	
0	Class G	Least Serious

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 15:321-329.

**HISTORICAL NOTE:** Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, Louisiana Sentencing Commission, LR 18:50 (January 1992), amended LR 18:961 (September 1992), LR 19:893 (July 1993), LR 20:788 (July 1994).

**§403. Tables for Determining Designated Sentence**

**A. Sentencing Guidelines Grid**



		<b>A</b>	<b>B</b>	<b>C</b>	<b>D</b>	<b>E</b>	<b>F</b>	<b>G</b>
		(5.0 +)	(4.9-4.0)	(3.9-3.0)	(2.9-2.0)	(1.9-1.0)	(0.9-0.1)	(0)
*	0	MURDER AG RAPE DIST DRUGS SCH I NARC AG KIDNAPPING	LIFE	LIFE	LIFE	LIFE	LIFE	LIFE
	1	ARM ROBBERY FORC RAPE MANSLAUGHTER AG BURGLARY KIDNAPPING II	360-330	300-270	240-210	180-150	126-96	102-72
	2	AG BATTERY ROBBERY I DIST DRUGS SCH II NARC SIMP RAPE	240-210	180-150	126-96	108-84	84-72	72-60 180-120
	3	MOLEST JUVEN PURSE SNATCH BATTERY II SIMP BURGLARY INHAB DWELL SIMP ESCAPE	144-120 240-160	108-84 225-150	84-72 210-140	66-54 195-130	60-48 180-120	54-36 165-110
	4	CARNAL KNOWL OF JUVENILE SIMP BURGLARY SIMP CR DMG PRP I > = 50,000	120-96 225-150	84-66 210-140	72-54 195-130	42-30 180-120	36-24 165-110	36-18 150-100
	5	FORGERY IND BEHAV JUV ILL POSS STOL GDS I > = 500 THEFT I > = 500	72-60 210-140	66-54 195-130	46-36 180-120	36-24 165-110	30-18 150-100	(30-18) 135-90
	6	SMP ARS I > = 500 UNLAW ENTRY PL BUS SIMP CRIM DMG PROP II > = 500	60-48 195-130	30-24 180-120	24-18 165-110	(24-18) 150-100	(24-15) 135-90	(24-12) 120-80
	7	ILL POSS STOL GOODS II > = 100 POSS DRUGS SCH I, Non-Narcotic THEFT II > = 100	48-36 180-120	24-18 165-110	(24-18) 150-100	(24-15) 135-90	(21-12) 120-80	(21-12) 108-54
	8	CONTRABAND POSS DRUGS SCH II, Non-N, II, IV SIMP ARS. II < 500	36-24 165-110	(24-18) 150-100	(24-15) 135-90	(24-15) 120-80	(18-12) 108-54	(18-12) 72-36
	9	CRIM AGNST NATURE PROSTITUTION SIMP ESCAPE SIMP POSS MARI	24-18 150-100	(24-15) 135-90	(24-12) 120-80	(24-12) 108-54	(15-12) 72-36	(15-12) 48-24

\* Most frequently occurring offenses for each level are listed.

B. Diagram of Sanction Zones in the Designated Sentence Range Grid

Example

**Incarceration**

<b>Sanction</b>	<b>84-72</b>	<b>Designated Sentence Range in Months of Incarceration</b>
<b>Zone</b>		

▲ ABOVE SHADED AREA ▲

<b>Discretionary</b>	<b>30-18</b>	<b>Designated Sentence Range in Months of Incarceration (If incarceration selected by the court)</b>
<b>Sanction</b>		
<b>Zone</b>	<b>150-100</b>	<b>Designated Sentence Range in Sanction Units (If Intermediate Sanction selected by the court)</b>

▼ BELOW SHADED AREA ▼

<b>Intermediate</b>	<b>(15-12)</b>	<b>Designated Sentence Range in Months of Incarceration</b>
<b>Sanction</b>		
<b>Zone</b>	<b>135-90</b>	<b>Designated Sentence Range in Sanction Units</b>

## C. Intermediate Sanction Exchange Rate Table

<u>Sanction</u>	<u>Duration</u>	<u>Sanction Unit Value</u>
Prison	1 Month	16
Jail	1 Month	16
Shock Incarceration <sup>1</sup>	1 Week	4
Work Release <sup>2</sup>	1 Week	4
Halfway House <sup>2</sup>	1 Week	4
Periodic Incarceration	7 Days	4
Home Incarceration <sup>2</sup>	1 Month	3
Intensive Supervision <sup>1</sup>	1 Month	3
Day Reporting	1 Month	3
Treatment--Residential <sup>3</sup>	1 Month	3
Treatment--Nonresidential <sup>3</sup>	15 Hours	3
such as:		
Drug Counseling		
Alcohol Counseling		
Parenting Counseling (child abuse/neglect cases)		
Aggressive Behavior Therapy		
Probation (Supervised with Standard Conditions)	1 Month	2
Community Service (Successfully Completed)	20 Hours	1
Rehabilitative Efforts (Successfully Completed)	20 Hours	1
such as:		
Adult Education		
Literacy Program		
GED Program		
Vo-Tech Training Program		
High School or College Courses		
Budgeting Courses		
Loss of Privilege (No violations)	90 Days	1
Drug Monitoring (Drug Free)	90 Days	1
Unsupervised Probation	1 Month	1
Economic Sanction	Amount of Average Monthly Income	10

<sup>1</sup>Only available under the provisions of R.S. 15:574.4, 574.5.<sup>2</sup>May require approval of appropriate correctional officials.<sup>3</sup>May exceed the maximum number of sanction units in accordance with LAC 22:IX.209.D.

#### D. Using the Intermediate Sanction Exchange Rate Table

1. The purpose of Intermediate Sanction Exchange Rates is to provide the court maximum flexibility in fashioning appropriate sentences utilizing intermediate sanctions. Intermediate sanctions are intended for offenders convicted of less serious and nonviolent offenses who do not have an extensive prior criminal history. In addition to punishment, intermediate sanctions may be fashioned in several ways to meet the needs of society, the victim, and the defendant. Use of the Intermediate Sanction Exchange Rate Table preserves uniformity in the amount of punishment imposed on offenders with similar criminal history, circumstances, and offense of conviction.

2. Goals of Intermediate Sanction Exchange Rates. In fashioning an intermediate sanction sentence, the sentencing court should consider the following goals:

- a. Proportionality of the sanction imposed to the offense of conviction and the offender's prior criminal record;
- b. Restoration of the victim as nearly as possible to pre-offense condition;
- c. Specific deterrence of the offender from future criminal conduct;
- d. Rehabilitation of the offender;
- e. Maximizing the degree to which the offender is held responsible for the costs and conduct associated with the sanction.

#### 3. Use of the Intermediate Sanction Exchange Rate Table

a. The table should be used when the designated sentence range is located in the *Grid* within the Intermediate Sanction Zone, i.e., all cells below the shaded area, or when it is located in the Discretionary Sanction Zone, i.e., all cells in the shaded area, and the court decides to impose an intermediate sanction.

b. The table may be used by analogy when the court decides that an Incarceration Sanction Zone, i.e., all cells above the shaded area, case is sufficiently mitigated to warrant a departure to an intermediate sanction. In such cases, the commission makes no specific recommendation concerning the appropriate sentence.

c. For each cell in the Discretionary or Intermediate Sanction Zone, a designated sentence range of sanction units is provided for use with the table. The court may impose any combination of intermediate sanctions for which the total sanction unit score falls within the range provided in the appropriate cell. Sentences which fall within the sanction unit score range do not require additional justification.

d. Intermediate sanctions are divided into four levels. The sanction unit value is the same for all sanctions within a level. Each specific sanction has a duration attached to it which corresponds to the amount of sanction units specified for that level. The ranges of duration

included with each specific sanction are intended to give the court additional flexibility in fashioning an appropriate intermediate sentence.

#### E. Intermediate Sanction Definitions

**Adult Education** Any program of adult education certified by the Louisiana Department of Education. Examples of adult education programs include any program of adult education leading to the High School Equivalency Diploma certified by the Louisiana Department of Education or literacy programs (reading/writing) certified by the Louisiana Department of Education. College programs qualify as adult education if offered by an accredited college or university. For an adult education program of any type to qualify for sanction unit credit, it must be ordered by the court. To receive credit for participation in a particular 20 hours of adult education, the offender must have successfully completed all 20 hours of the program; that is, attended all scheduled sessions and completed all work required by the program.

**Community Service** A sanction where an offender is required to work without pay for a designated number of hours, normally for public or private non-profit organizations. To receive credit, the offender must have successfully worked the full 20 hours.

**Day Reporting** A program in which offenders are required to report in person to the Sheriff's Office, Police Department, Division of Probation and Parole, or a special day reporting center, as designated by the court, or to an individual designated by the court. The offender will be monitored throughout the day by various forms of random checks. The sanction unit credits are earned by reporting and being subjected to the monitoring and control system. Other program participation, which may be part of a special day reporting center's operation, are considered to be separate sanctions for which additional sanction unit credit is given. For example, additional sanction unit credits should be given for participation in a drug monitoring program which may be offered by a drug treatment center which has been designated by the court for day reporting.

**Drug Monitoring** A procedure to determine that an offender remains drug-free while in the community. Drug monitoring is a separate sanction when required as a condition of probation, but not when it is part of a treatment program for which the offender is already receiving sanction unit credit. To qualify as a drug monitoring sanction, the program must:

a. be ordered by the court, and not included as a routine part of a treatment program for which the offender is also receiving sanction unit credit;

b. utilize a generally accepted method of drug monitoring or testing, such as urine testing, blood testing, hair testing, abuse monitoring, or any drug monitoring or testing program utilized by the Division of Probation and

Parole, Louisiana Department of Public Safety and Corrections;

c. require at least one unannounced (randomly scheduled) test per 30-day period;

d. have clearly defined consequences resulting from testing positive for drug use.

If ordered to participate in a drug monitoring program, an offender should receive sanction unit credit only if he or she remained drug-free for a 30-day period. An abuse, when associated with an abuse monitoring program, qualifies as a drug monitoring program.

**Economic Sanction** Any economic sanctions imposed on an offender including fines, costs, and restitution. The amount of sanction unit credit for the economic sanction is based on the percentage of the offender's average gross monthly income which may be necessary to pay the economic sanctions imposed by the court. Ten sanction units are earned by payment of an economic sanction or sanctions amounting to the offender's average gross monthly income. If the fine, costs, or restitution do not correlate directly with the offender's average gross monthly income, an appropriate addition or reduction of the units by the equivalent percentage may be necessary. For example, if an offender with an average gross monthly income of \$10,000 is ordered to pay \$1,000 in fines, costs, and restitution, only one sanction unit should be given. Likewise, in such case, if the offender's average gross monthly income was only \$1,000, ten sanction units should be given.

**Halfway House/Community Rehabilitation Center** A nonsecure residential facility for offenders. Nonsecure means that the facility lacks physical restraints designed to prevent offenders from departing without permission, such as bars on the windows. A halfway house may provide staff 24 hours per day to insure that all rules are followed.

**Home Incarceration** A sanction which restricts an individual to his or her residence for specific periods of time. Typically, an offender would be permitted to leave his or her home only for employment, medical needs, or such mandated assignments as community service. While home incarceration does not require electronic monitoring as a necessary element, some method of monitoring is required to assure compliance.

**Intensive Supervision** Participation in the intensive parole supervision programs as defined and implemented by the Department of Public Safety and Corrections or Sheriff under R.S. 15:574.4 and 574.5 or satisfaction of more restrictive probationary conditions than those customarily imposed, such as multiple weekly unannounced visits by the supervising officials, abiding by curfew, or refraining from use of alcoholic beverages. Any other intensive supervision which incorporates all of the major elements contained in the state program may be used if approved by the court.

**Jail** Incarceration not in custody of the Department of Public Safety and Corrections. If the court desires to

sentence an offender to less than one month of jail time, the offender should receive a proportionate reduction in the number of sanction unit credits. When jail is used as an intermediate sanction, sanction unit credit is based on the number of days or months which the offender will actually serve, deducting the amount of anticipated good time credit which the offender will earn if he serves his sentence on good behavior.

**Loss of Privilege** A sanction which occurs whenever a court removes an individual's permission to exercise a privilege. Examples include the suspension or revocation of a driver's license, suspension of a license to practice medicine, or to work as a pharmacist. A loss of privilege sanction should generally be related to the offense serving as the basis of the conviction. The loss of privilege due to administrative action, without the order of the court, does not receive sanction unit credit. In order to receive credit for a loss of privilege for 90 days, an offender must not violate the order of the court relative to the privilege during the entire 90 day period.

**Periodic Incarceration** A sanction of incarceration served in segments, as opposed to continuous confinement. An example of periodic incarceration is a sentence of 10 days incarceration to be served on five consecutive weekends.

**Prison** Incarceration in custody of the Department of Public Safety and Corrections. When prison is used as an intermediate sanction, sanction unit credit is based on the number of days or months actually served.

**Probation** Supervision of the offender in the community under the standard conditions of probation set forth in the Code of Criminal Procedure. When an offender is required as a condition of probation to perform any additional intermediate sanction such as community service or payment of a fine, the additional sanctions should be counted as additional sanction units.

**Shock Incarceration** Programs which typically involve a short period of incarceration, during which offenders are subjected to boot camp-style discipline and intensive treatment, followed by a period of intensive supervision in the community. These programs are authorized by R.S. 15:574.4 and 574.5 and require approval of appropriate correctional officials for an offender to be admitted.

**Treatment-Residential** Treatment programs which are associated with treatment institutions, such as hospitals or detoxification centers, when the offender is treated as an in-house patient. In order to receive sanction unit credit for a residential treatment program:

a. the offender's participation in the program must be ordered by the court;

b. the offender must be treated as an in-house patient, i.e., the offender must participate in the residential aspect of the program;

c. the offender must have satisfactorily participated according to the rules of the specific program.

*Treatment-Nonresidential* Treatment programs which have no residential component, or treatment programs associated with treatment institutions where the offender is treated as an out patient. Examples of non-residential treatment programs are drug counseling, alcohol counseling (including Alcoholics Anonymous), parenting counseling (in cases involving child abuse or neglect), aggressive behavior therapy, and various mental health programs. In order to receive sanction unit credit for a nonresidential treatment program, the program must be ordered by the court, and the offender must have satisfactorily participated according to the rules of the specific program.

*Vocational/Technical Training* Vocational/technical training programs which have been certified by the State of Louisiana. Sanction unit credit is given for successfully completing either 20 classroom hours or 80 hours of on the job training.

*Work Release* A sanction that allows an offender to participate in a court-approved work release program. Such a program allows an offender to be released from incarceration to report for work for a specified period of time. Participation in the program requires approval of appropriate correctional officials. A participant must return to his place of incarceration at the end of his workday. An

offender receives four sanction units of credit for each four week period in actual work release custody. He should receive one sanction unit for any week or portion thereof which is not part of a continuous four-week period.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:321-329.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, Louisiana Sentencing Commission, LR 18:50 (January 1992), amended LR 18:962 (September 1992), LR 18:893 (July 1993).

#### **§404. Sentencing Guideline Report**

The court should require the completion of a Sentencing Guidelines Report in each felony case. [The report is intended to provide the court with the seriousness level of the current offense, a computation of the offender's criminal history index, and the designated sentence range provided by the *Guidelines*. The Sentencing Guidelines Report and instructions will be promulgated at a later date, after review and testing in the field.]

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:321-329.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, Louisiana Sentencing Commission, LR 18:51 (January 1992).

# Title 22

## CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT

### Part XI. Board of Parole

#### Chapter 1. Administration

##### §101. Authority

The Louisiana Board of Parole, hereinafter referred to as "the board," has the authority to release on parole any statutorily eligible inmate convicted of a felony and sentenced to the Louisiana Department of Public Safety and Corrections and to detain or revoke any parolee for violation of parole conditions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Corrections, Board of Parole, LR 2:113 (April 1976), amended by the Department of Public Safety and Corrections, Board of Parole, LR 24:2292 (December 1998).

##### §103. Composition of the Board

A.1. The board shall be composed of seven members appointed by the governor, who shall designate one member as chairman and one member as vice-chairman.

2. All members shall serve at the pleasure of the governor and each appointment shall be confirmed by the Senate.

3. One member shall be appointed from a list of at least three names submitted by Victims and Citizens Against Crime, Inc.

4. Each member shall devote full time to the duties of the office and shall not engage in any other business or profession or hold any other public office.

B. The chairman of the board shall be the chief administrative officer for the board and shall be responsible for assuring that all meetings, hearings and administrative matters for the board are properly conducted in accordance with law and with these rules or executive order.

C. The vice-chairman of the board shall act in place of the chairman in his or her absence and shall be responsible for any other administrative duties as directed by the chairman or as provided by law or executive order. In the event that the vice-chairman is incapacitated or otherwise unable to perform his or her duties for any reason, the chairman shall perform such duties until the vice-chairman is able to resume performance of his or her duties.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Corrections, Board of Parole, LR 2:113, (April 1976), amended by the Department of Public Safety and Corrections, Board of Parole, LR 24:2292 (December 1998).

##### §105. Headquarters

A. The domicile of the board shall be in the parish of East Baton Rouge, City of Baton Rouge, Louisiana. The board's physical address is 504 Mayflower Street, Baton Rouge, LA 70802 and the mailing address is Box 94304, Baton Rouge, LA 70804.

B. Venue in any action in which an individual committed to the Department of Public Safety and Corrections contests any action of the board is East Baton Rouge Parish. Venue in

a suit contesting the actions of the board shall be controlled by R.S. 15:571.15 and not the *Code of Criminal Procedure*, Title XXXI-A, Post Conviction Relief, or Title IX, Habeas Corpus, regardless of the captioned pleadings stating otherwise.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Corrections, Board of Parole, LR 2:113 (April 1976), amended by the Department of Public Safety and Corrections, Board of Parole, LR 24:2292 (December 1998).

##### §107. Powers and Duties of the Board

A. to determine the time and conditions of release on parole of any eligible inmate who has been convicted of a felony and sentenced to the Louisiana Department of Public Safety and Corrections; the release date:

1. shall be fixed by the board; and
2. shall not be later than six months after the inmate's parole hearing or the most recent consideration of the case;

B. to determine and impose sanctions for violation of the conditions of parole;

C. to keep a record of its acts and to notify each institution of its decision relating to the persons who are or have been confined therein;

D. to transmit annually, on or before the first day of February, a report to the secretary of the Department of Public Safety and Corrections as set forth in R.S. 15:574.2(C)(4);

E. to apply to a district court to issue subpoenas, compel the attendance of witnesses, and the production of books, papers, and other documents pertinent to the subject of its inquiry; to take testimony under oath, either at a hearing or by deposition; and to pay all costs in connection with board hearings;

F. to consider all pertinent information necessary for parole consideration with respect to each inmate who is incarcerated in any adult penal or correctional institution in

the state at least one month prior to the parole eligibility date, when possible, provided the file has been completed by the Department of Public Safety and Corrections, and thereafter at such other intervals as the board may determine; such information shall be the inmate's consolidated summary record and pre-parole report and shall include but not be limited to the following:

1. circumstances of the instant offense;
2. reports filed under Articles 875 and 876 of the Louisiana *Code of Criminal Procedure*;
3. detainers issued or outstanding;
4. previous social history and criminal record;
5. conduct, employment and attitude in prison;
6. participation in vocational training, adult education, literacy, or reading programs;
7. reports of physical and mental examinations which have been made;
8. residence plan; and
9. employment plan;

G. to adopt rules not inconsistent with law as the board deems necessary and proper with respect to the eligibility of inmates for parole and the conditions imposed upon inmates who are released on parole;

H. when requested, to notify the chief of police, sheriff and district attorney of the parish where the inmate will reside and where the conviction(s) occurred of the inmate's pending release; the notification:

1. shall be in writing; and
2. shall be issued at least seven days prior to the inmate's release;

I. to adopt rules and regulations to encourage voluntary participation by inmates committed to the Department of Public Safety and Corrections in vocational training, adult education, literacy, and reading programs, through programs established by the department pursuant to R.S. 15:828(B); the rules and regulations may include provisions for accelerated parole release time, in addition to the provisions of R.S. 15:574.4(A)(1), for inmates who are not otherwise ineligible, but no inmate shall receive more than 10 additional days per month or 180 days total accelerated parole release time for program participation;

J. to sanction an inmate's disorderly, threatening, or insolent behavior, or use of insulting, abusive, or obscene language at a hearing or in written communications in connection with the inmate's parole application:

1. a decision to sanction the inmate may result in the immediate and unfavorable termination of the proceedings, and the inmate's right to make future application for parole may be suspended for not more than two years;

2. the applicant shall be informed of the sanction process and the possible consequences at the commencement of the proceedings. [See R.S. 15:574.2(A)(11)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Corrections, Board of Parole, LR 2:114 (April 1976), amended by the Department of Public Safety and Corrections, Board of Parole, LR 24:2293 (December 1998).

#### **§109. Restrictions on the Representation of Offenders**

A. The following persons shall not represent any offender, directly or indirectly, before the board:

1. the executive counsel to the governor;
2. the executive secretary to the governor;
3. any member of the immediate staff of the governor;
4. any member of a law firm, law partnership, or law corporation of which a member, associate, or partner is the executive counsel to the governor, the executive secretary to the governor, or a member of the immediate staff of the governor.

B. If an executive counsel, executive secretary, or member of the immediate staff of the governor violates the provisions of this Section, such person shall forfeit the office or position held and all emoluments of the office or position. In addition, if a member of a law firm, partnership, or corporation of which such a person is a member, associate, or partner violates the provisions of this Section, the office or position held with the governor and all emoluments of said office shall be forfeited. [See R.S. 15:572.7(A)(2)].

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Corrections, Board of Parole, LR 2:114 (April 1976), amended by the Department of Public Safety and Corrections, Board of Parole, LR 24:2293 (December 1998).

#### **§111. Communications Between Board Members**

There shall be no informal, off-the-record communications regarding the merits or the substance of an offender's case between board members for the purpose of influencing a decision of the board outside of an official administrative meeting or public hearing. Any attempt by a board member to discuss cases in an effort to persuade another board member or members outside of an official administrative meeting or public hearing shall be documented as set forth in §113.D.1 - 3.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Corrections, Board of Parole, LR 2:115 (April 1976), amended by the Department of Public Safety and Corrections, Board of Parole, LR 24:2294 (December 1998).

#### **§113. Communications With Board Members**

A.1. No member of the board shall transmit any correspondence to, or otherwise confer with, a judge before whom a convicted offender is awaiting sentencing to request



or recommend any action relating to the sentence to be imposed upon the offender.

2. The board shall notify the governor of its finding of a violation of this Section. However, no decision of the board shall be nullified or otherwise affected by the participation of a member who has violated this Section, except a decision that involves the offender on whose behalf the request or recommendation was made.

B. Notwithstanding the provisions of R.S. 15:574.12(A), or any other provision of law to the contrary, no person shall contact or communicate with the board or any of its members urging parole, or otherwise regarding any offender, except in an open hearing/meeting or by written letter addressed to the board.

1. Any written communication with the board regarding an offender as provided in this Section shall be deemed a public record and subject to public inspection as provided by R.S. 44:1 et seq.

2. Letters written by or on behalf of any victim of a crime committed by the offender, or any letter written in opposition to the inmate being placed on parole shall not be deemed a public record. However, this exception shall not apply to any written communication by an elected or appointed official.

C. Any member of the board improperly contacted by an individual shall immediately cease the inappropriate communication with the individual, notify the individual in writing, return receipt requested, accompanied by a copy of this rule, that such contact was illegal and inappropriate, and report the contact to the other board members.

1. Any person who persists in violating the provisions of this Section, after being informed of the inappropriate contact as provided in this Section, shall be reported to the appropriate district attorney for prosecution.

2. If convicted, the violator shall be fined not more than \$500 or imprisoned for not more than six months, or both.

D. A monthly contact sheet for oral communication will be kept by each board member, and any communication received by the board member with the intent to affect the outcome of any offender's case shall be entered on the form.

1. The form shall include the name of the individual making the contact, date and time of the contact, type of communication, name of offender, nature of the request and board member's action.

2. A copy of the monthly contact sheet shall be kept in a central registry at the board office and shall be subject to public inspection.

3. Copies of written communications shall be given to all board members.

E. Any public records' request directed to the board or its staff should be made in writing. The chairman or his or her designee and/or the board's attorney shall review and

approve or disapprove the request in accordance with R.S. 15:574.12 and R.S. 44:1 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Corrections, Board of Parole, LR 2:115 (April 1976), amended by the Department of Public Safety and Corrections, Board of Parole, LR 24:2294 (December 1998).

### **§115. Conflicts of Interest**

A. Any member of the board who has a conflict of interest must recuse himself or herself from a matter pending before the board. A conflict of interest may include, but not be limited to the following:

1. the board member is a witness;
2. the board member has been employed as an attorney for the offender;
3. the attorney for the offender is the spouse of a board member or is related to a board member;
4. the offender is a relative of a board member;
5. the board member is biased, prejudiced, or interested in the case or its outcome, or biased or prejudiced toward or against the offender or the offender's attorney to the extent that he/she would be unable to fairly and impartially participate in the hearing.

B. If a board member fails to recuse himself or herself, any interested person may request in writing to the chairman of the board that a member be recused. This request should include detailed reasons why a member should be recused.

C. If the member fails to recuse himself or herself, the matter shall be referred to the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Corrections, Board of Parole, LR 2:115 (April 1976), amended by the Department of Public Safety and Corrections, Board of Parole, LR 24:2294 (December 1998).

### **§117. Rules and Procedures Manual**

Each board member shall be issued a *Rules and Procedures Manual* and shall sign a statement to acknowledge receipt of the manual. Such statement shall include the board member's agreement to completely and thoroughly familiarize himself or herself with the information contained therein and to conduct himself at all times in a manner which will strictly adhere to the letter of the law, as well as the spirit and intent. The manual shall contain, but not be limited to, a copy of the following:

1. Louisiana Board of Parole Rules and Procedures;
2. Code of Governmental Ethics;
3. R.S. 42:1 et seq. (Public Policy for Open Meetings Law);
4. all department regulations and/or statutes with particular reference to the operations of the board.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Corrections, Board of Parole, LR 2:115 (April 1976), amended by the Department of Public Safety and Corrections, Board of Parole, LR 24:2294 (December 1998).

### **§119. Legislative Briefing**

A. Ninety days prior to a legislative session, the chairman shall appoint a committee consisting of:

1. at least two board members,;
2. the board's legal counsel;
3. executive counsel to the governor; and/or
4. an alternate member if requested by the board, which may be the legislative liaison of the Department of Public Safety and Corrections.

B. The committee shall present its recommendations to the board and the board shall determine if any legislation should be recommended by the board.

C. Following each legislative session, if necessary, a meeting will be held to brief all board members concerning those legislative acts which affect the operations of the board.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Corrections, Board of Parole, LR 2:116 (April 1976), amended by the Department of Public Safety and Corrections, Board of Parole, LR 24:2295 (December 1998).

### **§121. Board Spokesperson**

Only the chairman of the board or, in the absence of the chairman, the vice-chairman shall be authorized to speak on behalf of the entire board.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Corrections, Board of Parole, LR 2:116 (April 1976), amended by the Department of Public Safety and Corrections, Board of Parole, LR 24:2295 (December 1998).

## **Chapter 3. Parole Eligibility and Types**

### **§301. General Information**

A. The authority for determining parole eligibility dates, offender class, good time release dates and full term dates will be the official master prison record computed by the Louisiana Department of Public Safety and Corrections. The board will accept changes in the offender class and parole eligibility dates when recommended by the Division of Probation and Parole and verified by the records custodian.

B. No inmate may be paroled while there is pending against him any indictment or bill of information for any crimes suspected of having been committed by him while a prisoner.

C. Third and subsequent offenders, offenders sentenced to imprisonment without benefit of parole, and inmates serving a life sentence are not eligible for parole. Those inmates who have a parole eligibility date, but who may be ineligible for release, will be reviewed by a single-member as set forth in §513.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:2295 (December 1998).

### **§303. Regular Parole**

A. An inmate whose offense was committed prior to July 1, 1982, and who is not otherwise ineligible for parole, shall be eligible for parole consideration after serving one-third of the sentence imposed.

B. Except as otherwise provided by law, an inmate whose offense was committed on or after July 1, 1982, shall be eligible for parole consideration as follows:

1. first offenders are eligible after serving one-third of the sentence imposed;
2. second offenders are eligible after serving one-half of the sentence imposed.

C. An inmate convicted a first time for a *crime of violence* committed on or after January 1, 1997, and not otherwise ineligible for parole, shall serve at least 85 percent of the sentence imposed prior to parole consideration. In addition to the offenses enumerated in R.S. 14:2(13), a *crime of violence* is an offense that has, as an element, the use, attempted use or threatened use of physical force against the person or property of another, and that by its very nature, involves a substantial risk that physical force against the person or property of another may be used in the course of committing the offense or an offense that involves the possession or use of a dangerous weapon. [See R.S. 14:2(13)]

D. Except for those inmates serving a life sentence and those inmates convicted of a *crime of violence* committed on or after January 1, 1997, an inmate who is 45 years of age who has served 20 years of a sentence of 30 years or more, is eligible for parole consideration.

E.1. Within three months prior to an inmate's parole eligibility date, all pertinent information will be compiled concerning the inmate's case, including but not limited to:

- a. the nature and circumstances of the offense;
  - b. prison records;
  - c. the pre-sentence investigation report;
  - d. the pre-parole report including recommendations from the Division of Probation and Parole; and
  - e. any other information (including correspondence), reports, or data as may be generated.
2. If appropriate, a public hearing shall be scheduled.

F. The board will not schedule a parole hearing or rehearing when there is less than 90 days between the parole eligibility date and the diminution of sentence/parole supervision release date, or when there is less than 90 days between the earliest possible hearing date and diminution of sentence/parole supervision release date. A hearing will not be held if the pre-parole report has not been received by the board from the Division of Probation and Parole or if the victim has not been notified prior to the scheduled public hearing.

G. In the event an inmate chooses to withdraw from parole consideration, he may reapply for a hearing in accordance with §705.

H. Parole hearings may be held during the month prior to the parole eligibility date.

I. No inmate who is the parent, stepparent, or has legal and physical custody of a child who is the victim, shall be released on parole unless the victim has received psychological counseling prior to the inmate's release if the inmate is returning to the residence or community in which the child resides. [See R.S. 15:574.4(H)(5)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:2295 (December 1998).

### §305. Impact Parole

A. A person otherwise eligible for parole, convicted of a nonviolent first felony offense or of a nonviolent second felony offense, but never having served time in a state prison, may be eligible for intensive parole supervision upon successful completion of intensive incarceration.

1. The intensive incarceration and parole supervision program shall be established and administered by the Department of Public Safety and Corrections.

2. The duration of the intensive incarceration shall not be less than 180 calendar days.

3. The offender may be considered for participation in the program if all of the following considerations are met:

a. the offender is sentenced to be committed to the Department of Public Safety and Corrections to serve seven years or less;

b. the Department, through the Division of Probation and Parole within the Office of Adult Services, recommends to the sentencing court that the offender is particularly likely to respond affirmatively to participation in the program;

c. the court at sentencing recommends that the offender be considered for participation in the program;

d. the secretary of the department, or his designee, finds, after an evaluation, that the offender is particularly likely to respond affirmatively to participation in the program;

e. the offender voluntarily enrolls in the program after having been advised by the Department of Public Safety and Corrections of the rules and regulations governing the participation in the program.

B. An offender who is otherwise eligible for intensive incarceration and intensive parole supervision, but who has not been recommended for participation in the intensive incarceration and intensive parole supervision program by the Division of Probation and Parole of the Office of Adult Services and the sentencing judge, may additionally be placed in the intensive incarceration and intensive parole supervision program if all of the following conditions are met:

1. the staff at the Adult Reception and Diagnostic Center, after a thorough evaluation, determines that the offender is suitable and appropriate for participation;

2. the warden at the Adult Reception and Diagnostic Center concurs with the staff recommendation;

3. the warden of the facility where the offender would be placed concurs with the recommendation of the staff and the warden of the Adult Reception and Diagnostic Center;

4. the offender meets other conditions set forth in R.S. 15:474.4.

C. The court may sentence an offender directly to the program if the court commits the offender to the Department of Public Safety and Corrections to serve seven years or less.

D.1. When an inmate completes intensive incarceration, the board shall review the case in a public hearing in accordance with §511 to determine whether the inmate should be released on intensive parole supervision or serve the remainder of his sentence as provided by law. Such review shall include:

a. an evaluation of the inmate's performance while incarcerated;

b. the likelihood of successful adjustment on parole; and

c. other factors deemed relevant by the board.

2. The board may defer any final decision and reschedule the consideration for the next scheduled hearing at the Elayn Hunt Correctional Center.

E. When the inmate is released to intensive parole supervision by the board, the board shall require the inmate to comply with conditions of intensive parole supervision in accordance with R.S. 15:574.4(A)(2)(h), in addition to any other conditions of parole ordered by the board.

NOTE: See Department Regulation No. B-02-005 Intensive Incarceration/Intensive Parole Supervision (IMPACT)-Adult and Alternative Correctional Treatment Program for Juveniles for additional information concerning the IMPACT program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:2296 (December 1998).

**§307. Medical Parole**

A. An inmate determined by the secretary of the Department of Public Safety and Corrections to be *permanently incapacitated* or *terminally ill* may be eligible for release consideration.

1. Upon referral by the Department of Public Safety and Corrections, the board may schedule the inmate for a hearing for medical parole consideration.

2. Inmates who are serving a sentence for first or second degree murder, who are awaiting execution, or who have a contagious disease are not eligible.

B. *Permanently incapacitated inmate* means any inmate who, by reason of an existing physical or medical condition, is so permanently and irreversibly physically incapacitated that he does not constitute a danger to himself or to society.

C. *Terminally ill inmate* means any inmate who, because of an existing medical condition, is irreversibly terminally ill, and who by reason of the condition does not constitute a danger to himself or to society.

D. Public hearings for medical parole consideration will be held at a location convenient to the board and the inmate. The board may request that additional medical information be provided or that further medical examinations be conducted.

E. The authority to grant medical parole shall rest solely with the board.

1. The board shall not grant medical parole unless advised that the inmate is permanently disabled or incapacitated.

2. The board, if it grants medical parole, may establish any additional conditions of medical parole as it may deem necessary to monitor the inmate's physical condition and to assure that the inmate is not a danger to himself and society.

F. Parolee must sign a medical release form.

G. Supervision of an inmate released on medical parole shall consist of periodic medical evaluations at intervals to be determined by the board at the time of release.

1. An inmate released on medical parole may have his parole revoked if his medical condition improves to such a degree that he is no longer eligible for medical parole.

2. Medical parole may also be revoked for violation of any condition of parole as established by the board.

NOTE: See Department Regulation No. C-03-004 "Medical Parole" and R.S. 15:574.20 for additional information concerning medical parole.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:2297 (December 1998).

**§309. Diminution of Sentence (Good Time/Parole Supervision Release)**

An inmate whose offense was committed on or after July 1, 1982, and who is not otherwise ineligible for diminution of sentence, shall be released on his diminution of sentence/parole supervision release date as if on parole.

1. Each inmate released on diminution of sentence/parole supervision shall be subject to conditions of parole pursuant to R.S. 15:574.4(H) and Chapter 5 of these rules.

2. If an inmate violates a condition of his diminution of sentence/parole supervision release or other conditions imposed by the board, the board shall proceed in the same manner as in revocation matters pertaining to those granted regular parole.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:2297 (December 1998).

**§311. Work Release**

A. The board may recommend to the secretary of the Department of Public Safety and Corrections that an inmate be placed on work release at any time that the inmate is within two years of discharge by diminution of sentence, diminution of sentence/parole supervision, or full term release date.

1. The inmate must not be serving a sentence for one of the enumerated offenses specified in R.S. 15:1111 or Department Regulation No. B-02-001 Assignment and Transfer of Inmates. In this case, he would only be eligible in the last six months of his term.

2. The board may elect to grant parole to an eligible inmate and then recommend to the secretary of the Department of Public Safety and Corrections that the inmate be placed in work release for six months; however, the actual parole release date fixed by the board must be within six months of the date of the hearing pursuant to R.S. 15:574.4(G).

B. Inmates who are serving a sentence for an enumerated offense as specified in R.S. 15:1111 or Department Regulation No. B-02-001 "Assignment and Transfer of Inmates," are eligible for work release only during the last six months of their term. Therefore, before the board recommends work release to the Secretary of the Department of Public Safety and Corrections for these inmates, the board must render a decision which grants parole on a specific date that is no more than six months from the date of the hearing. This formally establishes that the inmate is within the last six months of his term and validates the work release recommendation.

C. Pursuant to R.S. 15:574.7(B)(2)(b), parole violators may be committed to a work release facility by the board as a condition of parole in lieu of revocation. Such commitment may be for a period of time not to exceed six months,

without benefit of good time, provided that such commitment does not extend the period of parole beyond the full parole term.

D. Except as provided in §311.C, all assignments to work release must be approved by the secretary of the Department of Public Safety and Corrections or his designee.

NOTE: See Department Regulation No. B02-001 "Assignment and Transfer of Inmates" for additional information concerning the work release program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:2297 (December 1998).

## Chapter 5. Meetings and Hearings of the Board of Parole

### §501. Types of Meetings

A. All meetings and hearings of the board shall be open to the public. For the purpose of convenience and in order to differentiate between the different types of forums for conducting business, the following designation or title has been given, depending upon the nature of the matters or actions to be considered:

1. a *business meeting* is a meeting of the full board to discuss all general business matters as set forth in §507;

2. an *administrative meeting* is a meeting of randomly selected, three-member panels to consider administrative matters, as set forth in §509;

3. a *public hearing* is a meeting of randomly selected, three-member panels with offenders present, as set forth in §511.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:2298 (December 1998).

### §503. Selection of Three-Member Panels

A. The board shall operate in a minimum of three-member panels, except as otherwise provided in these rules.

B. The vice-chairman of the board shall randomly assign all three-member panels. Each panel shall appoint the chairperson of that three-member panel.

C. The random selection of panels shall be by institutional groupings and shall be done in such a manner as to result in the smallest probability of having a panel constituted by the same three members at the same prison for two consecutive months.

1. The random selection process will involve six "circuits" each month.

2. There will be one circuit of four prisons, two circuits of three prisons, and three circuits of two prisons.

3. The six circuits will be visited each month by six panels.

D. In the event that a board member requests a change in the composition of the panel, the reason for such request must be made in writing to the vice-chairman of the board for approval. This does not include emergencies, illness, etc. on the day of the hearings/meetings.

1. When an emergency request is made on the date of the hearing/meeting, the explanation for such emergency must be submitted in writing upon the panel member's return to work as promptly as practical.

2. There will be no substitutions of panel members except in cases of either illness or emergencies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:2298 (December 1998).

### §505. General Procedures

A. The board will conduct its business meetings, administrative meetings, and public hearings in accordance with the provisions of R.S. 42:1 et seq. (Public Policy for Open Meetings Law) and *Robert's Rules of Order*.

1. At business meetings, detailed minutes indicating time of commencement, persons present (including visitors and witnesses), adoption of previous minutes, motions and seconds, and time of adjournment shall be kept.

2. The board's minutes of public hearings and administrative meetings shall include the following information as applicable:

- a. name and Department of Corrections (DOC) number of the offender;
- b. name of counsel representing the offender;
- c. the vote of each member; and
- d. the decision of the board.

B.1. The vote of each panel member shall be recorded by name and date on the vote sheet.

2. Only those members present shall vote; voting by proxy is prohibited.

3. No vote shall be taken while the panel is in executive session.

4. The panel shall not rescind the original vote without conducting a new hearing, except as provided in §505.P, §513.A.1 - 3, and §711.

5. The original vote sheet shall remain in the inmate's DOC file and a copy shall be attached to the minutes and maintained in a separate locked file in the board office.

C. The chairperson of the panel shall appoint a member of each three-member panel, other than the chair, to review case records subsequent to voting to assure the accuracy of all documents.

D. A majority vote is required to continue or recess a meeting or hearing. Generally, the matter will be rescheduled for the next month, but may be rescheduled for an earlier date if deemed appropriate by the panel.

E. A panel may go into executive session to discuss each offender's case prior to a decision pursuant to the provisions of R.S. 42:6, 42:6.1 and 15:574.12. No vote shall be taken while the panel is in executive session.

F.1. The victim, spouse, or next of kin of a deceased victim shall be advised in writing no less than 30 days prior to the hearing date when the inmate is scheduled for a parole hearing.

2. The notice shall advise the victim, spouse, or next of kin of a deceased victim that:

- a. the hearing is open to the public;
- b. he or she may remain in the hearing room during the entire hearing (except during executive session); and
- c. he or she may speak to the panel prior to its making a decision in the case.

3. The board has delegated the responsibility for this notice to the Department of Public Safety and Corrections.

4. The written notice is not required when the victim, the spouse, or next of kin of a deceased victim, advises the board in writing that such notification is not desired.

5. Notification is not required when the victim cannot be located despite the exercise of due diligence.

6. For purposes of §505.F, a *victim* is defined as an individual, business entity, or corporation against whom a crime has been perpetrated.

G. Pursuant to R.S. 15:574.2(C)(12) the panel may exclude anyone from the hearing to protect the privacy of the victim or victims.

H. The board may extend invitations to individuals to observe board proceedings.

I. The board may direct questions to and/or request statements from anyone appearing before the board.

J. It is generally inappropriate for children under the age of 12 years, except when the child is a victim and chooses to appear, to be present during any public meeting or hearing of the board.

K. The number of people supporting or opposing the granting of parole, including victims and/or family members of victims will be limited only by space and security considerations.

L. The victim or victim's family shall have the right to make a written or oral statement as to the impact of the crime. The victim or the victim's family, a victim advocacy group, and the district attorney or his representative may also appear before the panel by means of telephone communication from the office of the local district attorney.

M. An inmate can apply for a rehearing six months from release from lockdown, if the inmate was placed in lockdown for disciplinary reasons.

N. The vice chairman shall be responsible for schedules of administrative meetings and public hearings.

1. Such schedules may be changed, only upon prior notice, provided that such changes are made in a timely manner in order to notify all concerned.

2. Such meetings may be rescheduled without notice due to inclement weather, or any other emergency or unforeseen situation.

O. The vice-chairman of the board or his or her designee shall develop a duty calendar and shall designate one board member as the daily duty officer.

1. The duty officer shall be available and present to act on behalf of the board concerning both routine office and administrative matters as authorized by these rules.

2. If the duty officer must substitute for another member at a hearing or is absent for any other reason, he or she need not be replaced by another duty officer.

P. Upon notification by the secretary of the Department of Public Safety and Corrections that an inmate has violated the terms of work release granted under §311 or has engaged in misconduct prior to the inmate's release, the board may rescind its decision to grant parole. In such cases, the inmate shall promptly receive another parole hearing.

Q. The board shall cause a complete record to be kept of every inmate released on parole. Such records shall be organized in accordance with the most modern methods of filing and indexing so that there always will be immediate availability of complete information about such inmate.

R. In case of video conferencing, the family, friends, and attorney of the inmate shall be at the location of the inmate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:2298 (December 1998).

### **§507. Business Meetings**

A. The full board shall meet once each quarter when called by the chairman of the board. Additional meetings may be called as needed by either the chairman of the board or a majority vote of the board.

B. The agenda for business meetings of the board may include, but shall not be limited to, the following topics:

1. board rules;
2. personnel matters;
3. litigation; and
4. any other matters the board deems necessary.

C. Business meetings should be tape recorded and copies of the taped and/or written minutes shall be available upon request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:2299 (December 1998).

### **§509. Administrative Meetings**

A. The vice-chairman shall schedule administrative meetings. A copy of the schedule shall be available for public inspection at the board office.

B. The panel may consider the following actions:

1. to add or remove conditions relative to parolees;
2. to consider rehearing requests; and
3. to consider those matters referred by a member from single-member action (see §513); the member who makes such a referral may not serve on the panel.

C. A unanimous vote will be necessary in order to grant the actions stated in §509.B.1 - 3.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:2299 (December 1998).

### **§511. Public Hearings**

A. The vice-chairman shall schedule public hearings. A copy of the schedule shall be available for public inspection at the board office.

B.1 The panel may consider the following actions with the offender present:

- a. parole;
- b. revocation; and
- c. recommendations for work release.

2. In the case of IMPACT parole, the offender need not be present unless requested by the panel.

C.1. A unanimous vote is required to grant parole or to recommend work release regardless of the number of board members at the parole hearing.

2. Once the panel votes to grant or deny parole at a particular hearing, the vote may not be rescinded at that hearing.

3. If a member of a panel moves that a particular condition of parole be considered and determined prior to the vote to grant or deny parole, that issue shall be determined prior to the vote on parole.

D. Otherwise, following a vote granting parole, the panel shall consider whether to impose special conditions of release. All special conditions of release, including special conditions of diminution of sentence/parole supervision release, shall be approved by a unanimous vote of the panel.

E. A majority vote is required to revoke parole.

F. An inmate docketed for a public hearing may be represented by counsel.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:2299 (December 1998).

### **§513. Single-Member Action**

A.1. A single board member may act upon the following matters which have been reviewed and recommended by the Division of Probation and Parole:

- a. Activity Reports (see §1103); and
- b. Violation Reports (see §1109).

2. A single board member may also review the file of those inmates who have a parole eligibility date but who are ineligible for release, including inmates whose parole eligibility hearing date falls within 90 days of the inmate's release on diminution of sentence/parole supervision.

3. The duty officer may rescind parole as provided in §505.P, pending another parole hearing.

B. Written documentation must be placed in the offender's file in the event the board member fails to follow a recommendation of the Division of Probation and Parole. In such case, the matter shall be automatically scheduled for consideration by a three-member panel at the next available administrative meeting date.

C. Under no circumstances should a board member sign a blank form concerning single-member action matters.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:2300 (December 1998).

## **Chapter 7. Parole Decisions**

### **§701. Policy Statement**

It shall be the policy of the board to consider the following guidelines in determining whether to grant or deny parole.

1. Nature and Circumstances of the Crime

a. The board will evaluate and consider the circumstances of the crime based upon the official version of the offense, as well as the victim's and offender's versions of the offense, to determine, if possible, whether the particular conditions that contributed to the commission of the crime are likely to reoccur.

b. The board shall also consider the seriousness of the offense, the offender's role in the offense and the degree of his involvement, whether the offender was the instigator of the crime, and whether the crime was premeditated.

c. Particular consideration will be given to those cases which involved the use of a weapon and/or caused injury to the victim.

## 2. Prior Criminal Record

a. The board will evaluate and consider any available prior adult and/or juvenile records and the number and seriousness of prior convictions including the length of time between any prior convictions and the commitment of the instant offense to determine the seriousness of the offender's prior criminal history.

b. A pattern of continuous encounters with law enforcement may evidence the likelihood that the offender will not succeed on parole.

c. The board may also consider whether the instant offense was committed while the offender was on probation or parole, and the offender's response to prior community supervision, if any.

## 3. Character, Social Background, and Emotional and Physical Condition

a. The board will evaluate and consider information pertaining to the offender's work record, level of education, occupational skills, and evidence of emotional stability.

b. A history of chronic drug and alcohol abuse may evidence the likelihood that the offender will not succeed on parole.

## 4. Institutional Adjustment

a. The board will evaluate and consider information concerning the offender's attitude while incarcerated, including the offender's participation in available programs and his overall compliance with institutional regulations.

b. Obedience to institutional rules may evidence that the offender will comply with parole conditions, while a disciplinary record consisting of major and/or minor infractions may be viewed negatively.

c. A decidedly poor disciplinary record will weigh heavily against the offender.

d. Offenders assigned to working cellblock or disciplinary detention/extended lockdown or otherwise assigned to cellblock areas for disciplinary reasons would generally not be considered a good risk.

## 5. Police, Judicial and Community Attitudes Toward the Offender

a. The board will evaluate and consider information concerning the offender from the community and public officials who are acquainted with the case.

b. This factor is given greater weight because the probability that an offender will succeed on parole is greatly diminished if he will return to a community which has expressed hostility toward him and is lacking support for him.

c. Evidence of official and/or community support may increase the likelihood of parole.

## 6. Parole Plan

a. The board will evaluate and consider the strength of the offender's social ties, including whether he has a supportive family, resources available to him in the community, and employment opportunities.

b. The board will place emphasis on the appropriateness of the parole plan; therefore, it is important for the offender to have secure employment plans and a stable living arrangement available upon parole.

c. Lack of an acceptable parole plan may decrease the likelihood of parole.

7. Self Help Programs. The board will evaluate and consider an offender's participation in recovery groups such as Alcoholics Anonymous and Narcotics Anonymous, as well as educational and vocational programs. Such participation is considered beneficial.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:2300 (December 1998).

## §703. Result of Decision to Grant or Deny Parole

A. The board's decision to grant or deny parole will be made and disclosed to the inmate at the time of the parole hearing and he will be furnished with a copy of the Parole Decision Form. The Parole Decision Form shall also be made available to the administration at the facility housing the inmate.

1. The original Parole Decision Form will be placed in the inmate's DOC record and will serve as the authority for the Certificate of Parole to be prepared.

2. The certificate will then be forwarded to the Division of Probation and Parole District Office where the inmate will be supervised while on parole.

B. No physical release from custody shall be authorized by the granting of a parole eligibility date that extends beyond six months from the date of the hearing; nor shall release be authorized until all notice requirements, if any, have been timely made.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:2301 (December 1998).

## §705. Reapplication for Parole Hearing

A. An inmate must utilize a Reapplication for Parole Form in order to apply for a parole rehearing, when available.

B. The reapplication form may be submitted by the inmate and/or his attorney.

C. Reapplication for a parole hearing will be allowed only under the following conditions.



1. An inmate convicted of a nonviolent crime, except as otherwise restricted, may apply six months after the original denial, and if denied on reapplication, every six months thereafter.

2. Except as provided in §705.C.3, an inmate convicted of a *crime of violence* as enumerated in R.S. 14:2 or as set forth by the court at the time of sentencing, and/or a crime against persons as enumerated in R.S. 14:29-47, may apply one year after the original denial, and if denied on reapplication, every two years thereafter.

3. An inmate convicted of a sex offense as defined in §903, of first or second degree murder (if commuted to a fixed term of years and otherwise eligible for parole), or of manslaughter may reapply two years after the original denial, and if denied on reapplication, every two years thereafter.

4. A parole eligible inmate who was previously released on parole or diminution of sentence/parole supervision and who was revoked for any reason, may reapply one year after the revocation. If denied on reapplication, the offender may reapply every year thereafter, excluding inmates convicted of a sex offense, or first or second degree murder (if commuted to a fixed term of years and otherwise eligible for parole) or of manslaughter, who may reapply as set forth in §705.C.3.

5. Even if otherwise eligible in accordance with this Section, an inmate who is permanently assigned to maximum custody status for disciplinary adjustment reasons will be ineligible to make reapplication until he has been released from such status for a minimum of six months.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:2301 (December 1998).

#### **§707. Parole Plans**

##### **A. In-State Parole**

1. The board will not issue a Certificate of Parole to anyone granted parole until the residence plan has been approved by the Division of Probation and Parole. The board has authority to waive employment plans for a specified amount of time. These plans should be given to the classification officer at the correctional facility at the pre-parole interview or mailed directly to the board four months prior to the parole eligibility date.

2. A parole hearing may be held as docketed without approved residence or employment plans. Parole may be granted at the hearing, subject to the plans being approved through the Division of Probation and Parole. Approved employment plans may enhance the possibility for a favorable parole decision.

##### **B. Out-of-State Parole**

1. Out-of-state parole plans may be considered when the state in question issues a written statement expressing its willingness to accept the parolee under specific residential

and employment conditions. Release will be deferred until such approval is received by the board.

2. Before any parolee can be considered for a plan of supervision in another state, the offender shall sign an Application for Interstate Compact Services Agreement to Return (waiver of extradition).

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:2301 (December 1998).

#### **§709. Parole to Detainer**

When the board determines that it would be in the best interest of the public and the inmate, parole may be granted subject to any outstanding detainers or notices that are held by local authorities. Once the parolee is released from the detaining authority, he must report to the Division of Probation and Parole District Office where he will be supervised while on parole.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:2301 (December 1998).

#### **§711. Parole Contingent on Completion of Substance Abuse Program**

A. When the board determines that it would be in the best interest of the public and the inmate, the board may require successful completion of a board-approved drug rehabilitation program as a prerequisite to release on parole. The board may specify which programs are board-approved.

1. In no event, however, may the physical release from custody on parole extend beyond six months from the hearing date.

2. If the inmate has not successfully completed the program in six months from the hearing date, the board shall rescind or reconsider his parole and schedule a subsequent hearing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:2301 (December 1998).

#### **§713. Parole Supervision**

Field supervision of parolees will be the responsibility of the Department of Public Safety and Corrections, Division of Probation and Parole.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:2302 (December 1998).

## Chapter 9. Conditions of Parole

### §901. Certificate of Parole

A. The Certificate of Parole will not become operative until specific conditions of release have been acknowledged and agreed to in writing by the inmate.

1. The inmate shall be advised orally and in writing of the conditions of parole prior to his release from incarceration. 2. The conditions of parole shall include, but not be limited to, those conditions contained in the Certificate of Parole, as approved by the board and the Division of Probation and Parole pursuant to the provisions of R.S. 15:574.4(H). (See the Certificate of Parole in the Rules and Procedures Manual.)

B. Special conditions of parole, in addition to those required by R.S. 15:574.4(H), may be imposed and may include one or more of the following:

1. attendance at AA/NA meetings (the board may specify the number of meetings to attend weekly);
2. mental health evaluation and treatment;
3. substance abuse evaluation and treatment;
4. payment of restitution for a direct pecuniary loss other than damage to or loss of property;
5. payment of fines and/or costs of court;
6. prohibited contact with the victim(s);
7. prohibited contact with co-defendant(s);
8. required GED, vo-tech or other educational plan;
9. compliance with treatment plan as ordered in the Substance Abuse Discharge Summary;
10. any other special conditions the board may deem appropriate.

C. The board shall impose special conditions of parole as set forth below.

1. When the victim's loss consists of damage to or loss of property, payment of restitution, either in a lump sum amount or in monthly installments based on the offender's earning capacity and assets. If the victim has been paid for such damage to or loss of property with monies from the Crime Victims Reparations Fund, the board shall order the parolee to make payments as reimbursement to the fund in the same amount as was paid from the fund to the victim. The Department of Public Safety and Corrections shall verify that prior payment has not been made by the parolee.

2. If the offender has not paid and is liable for any costs of court or costs of the prosecution or proceeding in which he was convicted or any fine imposed as a part of his sentence, the board shall require the payment of such costs or fine, either in a lump sum or according to a schedule of payments established by the board and based upon the offender's ability to pay.

3.a. If the offender does not have a high school degree or its equivalent, the board shall require the offender to enroll in and attend an adult education or reading program until he obtains a GED, or until he completes such educational programs required by the board, and has attained a sixth grade reading level, or until his term of parole expires, whichever occurs first. All costs shall be paid by the offender.

b. If it is determined that there are no adult education or reading programs in the parish in which the offender will be residing, or that the offender is unable to afford such a program, or attendance would create an undue hardship, this condition may be suspended.

c. The provisions of §901 shall not apply to those offenders who are mentally, physically, or by reason of age, infirmity, dyslexia, or other such learning disorders, unable to participate.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:2302 (December 1998).

### §903. Sex Offenders; General

A. The term *sex offender* shall refer to an inmate/parolee who has been convicted for the commission or attempted commission of any of the following offenses, or the equivalent, if committed in another jurisdiction:

1. aggravated rape, forcible rape, simple rape;
2. sexual battery, aggravated sexual battery, oral sexual battery, aggravated oral sexual battery;
3. intentional exposure of AIDS virus;
4. bigamy, abetting in bigamy;
5. incest, aggravated incest;
6. carnal knowledge of a juvenile, indecent behavior with a juvenile, pornography involving a juvenile, molestation of a juvenile;
7. crime against nature, aggravated crime against nature; or
8. contributing to the delinquency of juveniles by the performance of any sexual immoral act.

B. No sex offender whose offense involved a minor child shall be eligible for parole unless, as a condition of parole, the offender is prohibited from engaging in any business or volunteer work activity which provides goods, services, instruction, or care to and requires the offender to engage in a significant amount of direct contact with minor children.

C. No sex offender shall be eligible for parole unless, as a condition of parole, the offender is prohibited from engaging in any unsupervised business or volunteer activity which provides goods, services, instruction, or care to minor children and/or requires the offender to engage in a significant amount of direct contact with potential victims who are minor children.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:2302 (December 1998).

#### **§905. Notification and Registration**

A.1. In addition to any other notification requirement imposed by law, any sex offender residing in this state must notify, within 15 days of being released on parole, or within 30 days of establishing residence in Louisiana, the sheriff's office in the parish in which he will reside, and the police department in the area in which he will reside (if the population of the parish in which he will reside is in excess of 450,000) of his:

- a. name;
- b. address;
- c. place of employment;
- d. crime for which he was convicted and the date and place of such conviction;
- e. any alias used by him; and
- f. Social Security number.

2. In addition, a sex offender changing his residence must send written notice to the above referenced agencies within 10 days of the change in an address.

B. In addition to any other notification requirement imposed by law, sex offenders shall be required to provide, within 30 days of placement in probation or release on parole (if returning to a previously established residence) or 21 days of placement in probation or released on parole (when setting up a new residence):

1. the crime for which he was convicted; and
2. his name and address:
  - a. to all persons residing within a three square block area, or a one square mile area if in a rural area;
  - b. to the heads of all public, parochial and private schools in the area in which he will reside; and
  - c. to the lessor, landlord, or owner of the residence or property on which he will reside.

C.1. In addition to any other notification requirement imposed by law, a sex offender shall publish notice of his name, address and crime for which he was convicted and paroled, on two separate days in the official journal of the governing authority of the parish where the sex offender will reside and in a newspaper which meets the requirements of R.S. 43:140(3) for qualification as an official journal and has a larger or smaller circulation in the parish than the official journal.

2. If the offender will reside in St. Tammany Parish, the board may, in lieu of the above, order the offender to publish notice in a specified newspaper which meets the qualification as an official journal and has a larger

circulation than the official journal of St. Tammany Parish. Notice shall be published without cost to the state.

D.1. In addition to any other notification requirement imposed by law, the Department of Public Safety and Corrections shall send written notice at least 10 days prior to parole, community placement or work release placement, to the chief of police of the city and the sheriff of the parish in which a sex offender will reside or be placed for work release.

2. If requested in writing, the board shall also send notice to:

- a. the victim of the crime, or if the victim is under 16 years of age, to the parents, tutor or legal guardian of the child;
- b. any witnesses who testified against the sex offender; or
- c. any person specified in writing by the prosecuting attorney.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:2303 (December 1998).

#### **§907. Additional Notification and Registration Requirements if Victim is Under Age 18**

A. In addition to any other notification requirement imposed by law, within three days of its decision to release a sex offender whose victim was under 18 years of age at the time of the commission of the offense, the board shall mail notice by registered or certified letter to the victim or the victim's parent or guardian if they were not present at the parole hearing, unless the victim or relative has signed a written waiver of notification, with a statement indicating:

1. that the sex offender will be released on parole;
2. the date the sex offender will be released; and
3. the address where the sex offender will reside.

B. In addition to any other notification requirement imposed by law, the sex offender shall make written notification to;

1. the superintendent of public, private and parochial schools;
2. the superintendent of parks and recreation districts; and
3. the official journal or other newspaper accompanied by two recent photographs or clear black and white photocopies of the offender's photograph. The photograph shall have been taken after the offender's release.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:2303 (December 1998).

**§909. Special Conditions**

In addition to the requirements and conditions as set forth in this Chapter, all sex offenders shall be subject to any special conditions as required by the board including, but not limited to signs, handbills, bumper stickers, or clothing labeled to that effect.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:2303 (December 1998).

**§911. Release of Information**

A.1. The board is authorized to release to the public the following information regarding sex offenders:

- a. name and address;
  - b. crime of conviction and date of conviction;
  - c. date of release on parole or diminution of sentence;
  - d. most recent photograph available; and
  - e. any other information that may be necessary and relevant for public protection.
2. Verbal requests for such information are acceptable.
  3. The chairman of the board or his or her designee may require a written request before releasing any information.
  4. The board cannot release any information regarding victims or witnesses of sex crimes to the sex offender or the general public.

B.1. In addition to any other information authorized to be released, the board may, pursuant to R.S. 15:546, release information concerning any inmate under the jurisdiction of the board who is convicted of any sex offense or criminal offense against a victim who is a minor, or who has been determined to be a sexually violent predator. The board may disseminate information regarding an offender's criminal convictions without restriction.

2. Other information regarding an offender's criminal history records, including nonconviction history may only be released subject to the restrictions outlined in R.S. 15:548. Unless the request is made by a representative of a criminal justice agency or a juvenile justice agency, such information shall, under normal circumstances, be released only pursuant to a written request.

3. The board shall be immune from liability for the release of information concerning any sex offender, sexually violent predator, or child predator.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:2303 (December 1998).

**Chapter 11. Violations of Parole****§1101. Types****A. New Felony Conviction**<sup>C</sup>Statutory

1. Parole will be automatically revoked when a parolee is convicted and sentenced in Louisiana for a new felony and the appeal process has been exhausted. Prior to documented proof that the appeal process has been exhausted, the board may revoke a parolee for technical violations at a public hearing.

2. A parolee who is convicted of a new felony in another state, or of a misdemeanor which if committed in this state would be a felony, shall have his parole revoked.

a. Upon his release, he shall be returned to the state of Louisiana to begin serving the remainder of his original sentence.

b. If a prerevocation hearing is conducted in the state in which the new offense is committed a final revocation hearing in Louisiana is not required.

c. If a prerevocation hearing is not conducted in the state in which the new conviction was obtained, when returned to Louisiana the parolee should appear before the board for identification purposes and for notification of the automatic revocation.

**B. Technical Violations**

1. Technical violations include any violations of the conditions of parole which are not felony convictions. Engaging in conduct constituting a felony or misdemeanor offense, even if not adjudicated, may be considered a technical violation for revocation purposes.

2. When a parolee has been detained in jail by the Division of Probation and Parole, a prerevocation on-site hearing will be scheduled as soon as possible. Subsequent to the prerevocation hearing, bond may be permitted, but only with authorization of the board.

**C. Absconders**

1. A parolee may be considered to have absconded supervision if he absents himself from his approved place of residence without permission from the Division of Probation and Parole.

2. When apprehended, absconders will be immediately returned to the custody of the Department of Public Safety and Corrections for a revocation hearing.

a. Absconders will not be entitled to a prerevocation hearing.

b. Extradition or waiver of extradition shall be considered as probable cause for absconders apprehended out-of-state.

c. Upon return to the department, a parole revocation questionnaire shall be completed and forwarded to the board. (See Louisiana Board of Parole<sup>C</sup>Parole Revocation Questionnaire in the Rules and Procedures Manual.)

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:2304 (December 1998).

### **§1103. Activity Report**

A. The Division of Probation and Parole shall notify the board within five days of an offender's initial violation utilizing an Activity Report. Such report shall give a brief summary of the circumstances of the violation and shall include a recommendation for action based upon the facts of the case and the seriousness of the violation.

B.1. The Activity Report will normally be used to recommend the following:

- a. issuance of an arrest warrant;
- b. issuance of a reprimand (usually not in custody);
- c. removal of a detainer to allow bond;
- d. suspension of supervision;
- e. unsatisfactory termination of parole;
- f. addition or deletion of special parole conditions;
- g. recalling a warrant.

2. The Activity Report may also be used to advise the board of an offender's actions for informational purposes which require no action by the board.

C. Upon receipt of the Activity Report, the case will be placed on the single-member action docket for a decision utilizing the Parole Board Action/Parole Violators form.

D. After the case has been acted upon, a decision notice will be forwarded to the Probation and Parole District Office where the parolee is assigned for supervision. The notice will be delivered to the parolee and a copy retained in the district office case record.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:2304 (December 1998).

### **§1105. Prerevocation Hearing for Detained Parole Violators**

A. The purpose of the prerevocation hearing is to determine if there is probable cause that the parolee has violated the conditions of his parole.

1. A finding of probable cause may support the continued detention of the parolee pending a final revocation hearing.

2. The *prerevocation hearing* is a preliminary due process administrative hearing which is conducted by a hearing officer designated from the Probation and Parole District Office. The hearing officer will have no direct prior knowledge of the parolee and the circumstances surrounding the allegations.

3. The allegations and findings presented in the preliminary hearing documents will be the foundation for revocation or other specified action.

B.1. The U.S. Supreme Court has stated that parolees detained for violations of the conditions of parole be afforded a prerevocation hearing; however, certain absconders and offenders convicted of new offenses may not be entitled to a prerevocation hearing.

2. The U.S. Supreme Court requires that the prerevocation hearing be conducted within a reasonable time following detention and in the locale or vicinity close to where the alleged violation occurred so that the offender has access to both favorable and adverse witnesses.

C.1. Prior to the prerevocation hearing, written notification will be furnished to the parolee advising him of:

- a. the charges pending against him;
- b. his rights at the hearing; and
- c. the date, time, and place of the hearing.

2. The parolee may request deferral of the prerevocation hearing pending disposition of felony charges.

D.1. The parolee may retain an attorney, or, if eligible, be represented by appointed counsel.

2. Documentary evidence and oral testimony may be taken from all participants present at the hearing, including witnesses and the parolee's friends and family.

3. At the conclusion of the hearing, the hearing officer will issue a ruling as to probable cause.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:2305 (December 1998).

### **§1107. Findings**

A. The hearing officer will issue a finding of probable cause or no probable cause.

1. If no probable cause is found, the hearing officer shall order the parole violation detainer to be lifted and the alleged violator released from custody.

2. If probable cause is found, the Division of Probation and Parole will make one of the following recommendations to the board:

- a. that the parole violator be detained;
- b. that the parole violator be allowed to make bond, if new charges are pending, while awaiting a final decision from the board;
- c. that the parole violator remain incarcerated, without bond, pending disposition of the charge;
- d. that the parole violator be reprimanded and continued under parole supervision.

3. If probable cause is found, the parole revocation questionnaire will be completed and forwarded to the board. (See the Louisiana Board of Parole CP parole Revocation Questionnaire in the Rules and Procedures Manual.)

B. A copy of the finding will be given to the parolee and a copy forwarded to the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:2305 (December 1998).

### **§1109. Violation Report**

A.1. The Violation Report is used to:

- a. formally advise the board of a parolee's current violations;
- b. summarize his conduct on supervision to date; and
- c. make recommendations to the board for action on the violations of parole conditions.

2. The action requested may be of an interim nature or for final disposition.

B. The Violation Report will normally be used to recommend the following:

- 1. automatic revocation;
- 2. hold pending disposition of charges;
- 3. revocation of parole;
- 4. allow bond pending disposition of charges;
- 5. impose special conditions of parole;
- 6. reprimand; and
- 7. unsatisfactory termination of parole.

C. The Division of Probation and Parole will prepare the Violation Report within five working days following receipt of the prerevocation decision from the hearing officer or five working days from the date the parolee waived or deferred the prerevocation hearing. The report, along with the prerevocation hearing forms and other documents, shall be forwarded to the board.

D. Upon receipt of the Violation Report and other documentation, the case will be placed on the single-member action docket utilizing the Parole Board Action/Parole Violators form.

E. After the case has been acted upon, a decision notice will be forwarded to the Probation and Parole District Office where the parolee is assigned for supervision. The notice will be delivered to the parolee and a copy retained in the district office case record.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:2305 (December 1998).

### **§1111. Scheduling Parolees for Revocation Hearing**

A. An offender ordered returned for consideration of final revocation will be scheduled for a public hearing.

B. The offender's detention location will determine the facility in which the revocation hearing will take place.

C. An Order/Letter of Return-Notice of Revocation Hearing and Transportation Request will be forwarded to the Division of Probation and Parole District Office assigned supervision of the offender. That office will deliver the:

1. Order to the parolee (thereby advising him of the charges pending against him, his rights at the hearing, and the date, time, and place of the hearing); and

2. Transportation Request to the local jail administrator having custody of the parolee. Generally, the local jail administrator will transport the parolee to the facility for the revocation hearing on the day of the hearing when such transportation is required.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:2306 (December 1998).

### **§1113. Revocation Hearing**

A. The purpose of the final revocation hearing is to determine if one or more conditions of parole have been violated by the offender, and if such violation(s) are serious enough to warrant reincarceration of the offender to serve the balance of his sentence.

B. The revocation hearing is a public hearing and shall be conducted as outlined in Chapter 3 of these rules.

C.1. The parolee:

- a. must be present for the hearing;
- b. may be represented by an attorney; and
- c. may normally have one witness testify on his behalf.

2. For good cause shown, the panel may permit the parolee to present additional witnesses. Reliable documentary evidence is admissible at the hearing.

D. A copy of the Violation Report with attachments and the Order/Letter of Return-Notice of Revocation Hearing will be provided to each panel member prior to the hearing, along with any other pertinent documents which may be submitted to the panel prior to or at the hearing.

E.1. The chairman of the panel, or his designee, shall:

- a. ensure the identification of the parolee; and
- b. obtain an acknowledgment that the parolee understands his rights related to the hearing.

2. The alleged violations will be read and the parolee will be asked to respond to each with "guilty" or "not guilty."

F.1. The parolee will be encouraged to speak for himself and to make a statement on his own behalf.

2. The parolee's attorney may speak on his behalf and/or advise him at any time throughout the hearing.

3. The district attorney or his or her representative may speak on behalf of the prosecution.

4. The board may request oral testimony from all participants present who have specific knowledge of the revocation violation(s).

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:2306 (December 1998).

### **§1115. Decision of the Panel**

A. The panel may make one of the following decisions:

1. revocation of parole;
2. reprimand and restore to parole supervision with or without special conditions imposed;
3. unsatisfactory termination of parole if full term date of parole supervision has passed; or
4. work release for up to six months in lieu of revocation [see R.S. 15:574:7(B)(2)(b)].

B.1. The panel may elect to vote to continue or recess the hearing until certain testimony which was not available at the prerevocation hearing can be heard or further evidence can be verified and presented.

2. The panel may also vote to recess and defer a decision until the outcome of pending charges. In this case, the parolee may be allowed to make bond on pending charges if so ordered by the panel. The board may then render a decision after receipt of additional evidence or after the disposition of the pending charge(s).

C.1. At the conclusion of the hearing, the panel will advise the offender orally of its decision and he will be furnished with a copy of the Parole Revocation Decision form.

2. A copy of each Parole Revocation Decision form will also be forwarded to the Probation and Parole District Office assigned supervision of the offender.

3. At the end of each month, a copy of all revocation dockets reflecting the results of the hearings will be forwarded to all Probation and Parole District Offices.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:2306 (December 1998).

### **§1117. Automatic Revocation for New Felony Conviction**

A final revocation hearing will not be held if the parolee has been convicted of a new felony while on parole, except

as stipulated in §1101.A. The board may, however, have the offender appear before them for identification purposes only.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:2306 (December 1998).

## **Chapter 13. Time Served**

### **§1301. Time Must be Served if Revoked**

A.1. An offender returned to incarceration for a parole violation that does not include a new sentence for a felony offense will be returned to serve the remainder of the original sentence as of the date of his release on parole, subject to applicable commutation statutes or good time credits.

2. A parolee, who has been revoked for violating the terms of parole granted by the board, shall forfeit all good time earned on that portion of the sentence served prior to the granting of parole.

B. An offender returned to incarceration as a parole violator who has received a new sentence for a felony offense while on parole shall serve the remainder of the original sentence as of the date of his release on parole, subject to applicable commutation statutes or good time credits. The new sentence shall be served consecutively to the previous sentence unless a concurrent term of imprisonment is expressly directed by the court.

C. The board accepts the official master prison record as issued by the Louisiana Department of Public Safety and Corrections in determining when sentences are concurrent or consecutive.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:2306 (December 1998).

## **Chapter 15. Parole Suspension and Termination**

### **§1501. Suspension of Supervised Parole**

A. After a minimum of two years supervised parole and upon the recommendation of the Division of Probation and Parole, the board may determine that a parolee merits unsupervised parole and may suspend a parolee's supervision.

B. A parolee may be subject to revocation for parole violations committed prior to the expiration of his full term discharge date. The parolee may be returned to maximum supervision any time prior to the expiration of his full term discharge date if the Division of Probation and Parole makes a report showing that such supervision is in the interest of either the public or the parolee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:2307 (December 1998).

### **§1503. Termination of Parole**

When a parolee has completed his sentence, he will be given a Certificate of Discharge from the Department of Public Safety and Corrections. The board cannot terminate parole prior to the parolee's full term discharge date.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:2307 (December 1998).

## **Chapter 17. Grievance Procedure**

### **§1701. Right to File a Grievance**

A. Any person may file a grievance under this procedure. However, no offender or parolee shall have the right to file a grievance against the board or board members for the decisions enumerated in R.S. 15:574.11.

B. A grievance must be based upon a violation of the Louisiana Board of Parole Rules and Procedures, Department of Public Safety and Corrections Regulations, or the Louisiana Revised Statutes.

C. A person against whom a grievance is filed is entitled to be represented by counsel.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:2307 (December 1998).

### **§1703. Complaint Process**

A. All grievances must be made in writing and submitted to the chairman of the board. Upon receipt, the chairman shall review the grievance and, if appropriate, forward it to the proper agency or authority for further action.

B. If the grievance relates to the board, or a member of the board, or the department staff assigned to the board, the chairman or his or her designee will investigate to determine if it has a basis in fact.

1. If the complaint is determined to have a basis in fact, the chairman will attempt to resolve the grievance.

2. If the chairman is unable to resolve the grievance, it shall be referred to a Grievance Committee. The committee shall consist of:

- a. the chairman of the board;
- b. the vice chairman (unless the chairman or vice chairman is the subject of the grievance); and
- c. any other person or persons jointly selected by the chairman and vice chairman.

C. If the Grievance Committee is unable to resolve the grievance, the matter will be forwarded together with any supporting documentation to the governor's executive

counsel for resolution. Supporting documentation shall include the following information:

1. a reference to the relevant statute, rules, regulations and/or code of ethics, etc.;
2. a written summary of the attempts made to resolve the complaint; and
3. any other pertinent documentation.

D.1. In the event the grievance is against the chairman of the board, the complaint shall be submitted directly to the vice chairman. In this instance, the chairman will recuse himself or herself and shall not appoint a designee to the committee.

2. If the grievance is against the vice chairman, the vice chairman shall recuse himself or herself and shall not appoint a designee to the committee.

3. The remaining member of the Grievance Committee shall select a member of the board to serve in place of the recused member.

4. If the complaint is against a board member, that member shall not be selected to serve on the Grievance Committee.

E. The decision of the chairman, the Grievance Committee, or the executive counsel, whichever may apply, is final and not subject to appeal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:2307 (December 1998).

### **§1705. Resolution of Grievance**

A. A written response to the grievance shall be mailed to the complaining party.

B. If it is determined that a board member has violated the Louisiana Board of Parole Rules and Procedures, Department of Public Safety and Corrections Regulations, or the Louisiana Revised Statutes, a letter shall be issued notifying the board member of the violation and a copy forwarded to the governor for disposition.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:2307 (December 1998).

## **Chapter 19. Board of Parole Code of Ethics**

### **§1901. General**

A. All board members are governed by the *Code of Governmental Ethics* (R.S. 42:15 et seq.), as well as this Code of Ethics (LAC 22:XI.Chapter 19).

B. Since board members are in a position of public trust, they are not to engage in any activities, either privately or officially, where a conflict of interest may exist.



AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:2308 (December 1998).

#### **§1902. Prohibitions**

A. Board members are prohibited from accepting or giving gifts, gratuities or rewards for doing any service or thing pertaining to the duties expected in the performance of their jobs.

B. Board members are prohibited from using their positions to influence other decision-makers in the criminal justice system.

C. Board members are prohibited from allowing political influence to color their decisions.

D. The *Code of Governmental Ethics* prohibits board members from "serving two masters" (conflict of interest). Board members shall devote themselves full time to the duties of their office and shall not engage in any other business or profession or hold any other public office.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:2308 (December 1998).

#### **§1903. Integrity**

A. Operational weaknesses and failure to achieve satisfactory performances are serious matters, but compromising integrity to achieve or report satisfactory performance is infinitely more serious.

B. Board members must set a good example at every opportunity. Their actions and direction should leave no avenue for doubt that they have completely and honestly performed their duties.

C. Board members must eliminate any appearance of impropriety, no matter how minor, toward violations or compromises of integrity. To achieve and maintain their objective, it is absolutely essential that board members be continuously conscious of their personal responsibility to practice integrity as they conduct their daily activities.

D. From time to time, infractions of integrity may be uncovered. There is no excuse for such infractions and they will not be condoned. Personal integrity must be complete and above reproach. If and when detected, infractions shall be reported to the appropriate authorities, and those responsible should be dealt with, in the most severe manner possible.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:2308 (December 1998).



# Title 22

## CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT

### Part XIII. Crime Victims Reparations Board

#### Chapter 1. Authority and Definitions

##### §101. Authority

Rules and regulations are hereby established by the Crime Victims Reparations Board by order of the Crime Victims Reparations Act, R.S. 46:1801 et seq., Act 250 of the 1982 Louisiana Legislature.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 46:1801 et seq.

**HISTORICAL NOTE:** Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, Crime Victims Reparations Board, LR 20:537 (May 1994).

##### §103. Definitions

The following terms as used in these regulations, unless the context otherwise requires or unless redefined by a particular part hereof, shall have the following meanings:

**Accessory** Can an accessory after the fact and also a principal, as defined by the Louisiana Criminal Code.

**Board** CCrime Victims Reparations Board.

**Child** Can unmarried person under eighteen years of age; includes a natural child, adopted child, stepchild, illegitimate child, any of the above who is a student not over 23 years of age, and a child conceived prior to but born after the personal injury or death of the victim.

**Claimant** Cvictim or a dependent of a deceased victim, or the legal representative of either, an intervenor, or in the event of death, a person who legally assumes the obligation or who voluntarily pays the medical or the funeral or burial expenses incurred as a direct result of the crime.

**Collateral Source or Resource** Csource of benefits for pecuniary loss awardable, other than under these rules, which the claimant has received or which is readily available to him/her from any or all of the following:

- a. the offender under an order of restitution to the claimant imposed by a court as a condition of probation or otherwise;
- b. the United States or a federal agency, a state or any of its political subdivisions, or an instrumentality of two or more states;
- c. Social Security, Medicare, and Medicaid;
- d. Workers' Compensation;
- e. wage continuation programs of an employer;

f. proceeds of a contract of insurance payable to the claimant for pecuniary loss sustained by the claimant by reason of the crime.

g. a contract providing prepaid hospital and other health care services, or benefits for disability.

**Dependent** Cspouse or any person who is a dependent of a victim within the meaning of Section 152 of the United States Internal Revenue Code.

**Intervenor** Ca person who goes to the aid of another and is killed or injured in the good faith effort to prevent a crime covered by this Chapter 1, to apprehend a person reasonably suspected of having engaged in such a crime, or to aid a peace officer. "Peace officer" shall include commissioned police officers, sheriffs, deputy sheriffs, marshals, deputy marshals, correctional officers, constables, wildlife enforcement agents, and probation and parole officers.

**Pecuniary Loss** Camount of expense reasonably and necessarily incurred by reason of personal injury, as a consequence of death, or a catastrophic property loss, and includes:

- a. for personal injury:
  - i. medical, hospital, nursing, or psychiatric care or counseling, and physical therapy;
  - ii. actual loss of past earnings and anticipated loss of future earnings because of a disability resulting from the personal injury;
  - iii. care of a child or children enabling a victim or the spouse, but not both of them, to engage in gainful employment;
- b. as a consequence of death:
  - i. funeral, burial, or cremation expenses ;
  - ii. loss of support to one or more dependents not otherwise compensated for as a pecuniary loss for personal injury;
  - iii. care of a child or children enabling the surviving spouse of a victim or the legal custodian or caretaker of the deceased victim's child or children to engage in lawful employment, where that expense is not otherwise compensated for as a pecuniary loss for personal injury;
  - iv. counseling or therapy for any surviving family member of the victim or any person in close relationship to such victim;
  - v. *pecuniary loss* does not include loss attributable to pain and suffering.

c. catastrophic property loss must be so great as to cause overwhelming financial effect on the victim or other claimant and shall be restricted to loss of abode;

d. any other expense associated with the collection and securing of crime scene evidence.

**Reparations** Cpayment of compensation in accordance with the provisions of the act for pecuniary loss resulting from physical injury, death, or catastrophic property loss by reason of a crime enumerated in the act.

#### **Victim** C

a. any person who suffers personal injury, death, or catastrophic property loss as a result of a crime committed in this state and covered by Chapter 1; or

b. a resident of Louisiana who is a victim of an act of terrorism (as defined in Section 2331 of Title 18, *United States Code*) occurring outside the U.S.; or

c. a Louisiana resident who suffers personal injury or death as a result of a crime described in R.S. 46:1805 except that the criminal act occurred outside of this state. The resident shall have the same rights under this Chapter as if the act had occurred in this state upon a showing that the state in which the act occurred does not have an eligible crime victims reparations program and the crime would have been compensable had it occurred in Louisiana. In this Subparagraph, *Louisiana Resident* means a person who maintained a place of permanent abode in this state at the time the crime was committed for which reparations are sought.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 46:1801 et seq.

**HISTORICAL NOTE:** Promulgated by the Office of the Governor, Crime Victims Reparations Board, LR 20:538 (May 1994), amended LR 22:709 (August 1996), LR 23:861 (July 1997), LR 24:327 (February 1998).

## **Chapter 3. Eligibility and Application Process**

### **§301. Eligibility**

To be eligible for compensation, an individual must have suffered personal injury as a result of a violent crime.

#### **1. Contribution**

a. The Crime Victims Reparations Board may vote not to make an award to a claimant who is a victim, or who claims an award of reparations through a victim, when any of the following occurs:

i. the victim was convicted of a felony within five years prior to the incident giving rise to the claim;

ii. there is good cause to believe that the victim engaged in an ongoing course of criminal conduct within five years or less of the criminally injurious conduct that is the subject of the claim;

iii. the victim was engaging in an illegal activity at the time of the criminally injurious conduct that is the subject of the claim.

b. As Louisiana law requires all drivers and front seat passengers to use seat belts, victims not wearing a seat belt and injured or killed by a driver in violation of R.S. 14:98 (DWI), if found eligible otherwise, may have their award reduced. The total maximum award allowed under current policy may be reduced by 50 percent.

#### **2. Collateral Sources**

##### **a. Restitution**

i. the board reserves the right to make an award to a victim/claimant when a court of law has ordered restitution by the defendant;

ii. if the board makes an award, the court will be contacted with a request for a change in the court order to reflect that payments are to be made to the Crime Victims Reparations Fund for the amount paid by the board.

#### **3. Unjust Enrichment**

a. When determining unjust enrichment or substantial economic benefit to offenders in applications involving domestic violence, the board will consider the following factors:

i. Has the victim reported the incident to the authorities and has the victim cooperated with their reasonable requests?

ii. In determining whether enrichment is substantial or inconsequential, factors to be considered include:

(a). the amount of the award,

(b). the total amount of income to the household, and

(c). whether a substantial portion of the award will be used directly by or on behalf of the offender.

b. If the offender has direct access to a cash award and/or if a substantial portion of it will be used to pay for his living expenses, that portion of the award that will substantially benefit the offender may be reduced or denied.

c. The availability of collateral resources, including but not limited to court-ordered restitution and medical insurance, will be examined. A determination shall be made:

i. as to whether the offender has a legal responsibility to pay,

ii. whether the offender has resources to pay,

iii. whether payment is likely.

d. The victim shall not be penalized for the failure of an offender to meet legal obligations to pay for the costs of the victim's recovery.

e. If the offender fails to meet legal responsibilities to pay restitution or provide for the medical and support

needs of a spouse or child, or if the offender impedes payment of insurance that may be available to cover a spouse's or child's expenses, the program should attempt to meet the victim's needs to the extent allowed.

f. Payments to third-party providers will be made wherever possible.

g. Child victims will not be penalized by denying or delaying payment when offender or collateral resources are not forthcoming.

**AUTHORITY NOTE:** Promulgated in accordance with R. S. 46:1801 et seq.

**HISTORICAL NOTE:** Promulgated by the Office of the Governor, Crime Victims Reparations Board, LR 20:538 (May 1994), amended LR 22:709 (August 1996).

### **§303. Application Process**

#### **A. Claimant Responsibility**

1. Applications must be sent to the sheriff's office in the parish where the crime occurred. Those that are sent directly to the board office will have the date received entered on the application and then will be sent to the appropriate sheriff's office.

2. The applications must be signed and dated by the victim/claimant. Only original signatures, no copies, will be accepted. If the victim is a minor, the parent or guardian is the claimant and must sign. If the victim is deceased, the person responsible for the bill is the claimant and must sign the application.

3. The claimant must list each expense being claimed.

4. An itemized bill, not a billing statement, must accompany the application for each expense claimed.

5. The bills must show the victim/claimant as the guarantor. The board will not accept any bills which indicate the board or the sheriff's office is the guarantor.

6. The victim/claimant is required to use claim forms to seek additional compensation after the original award is made.

#### **B. Sheriff's Office Responsibility**

1. Each sheriff will designate at least one staff member to handle the applications of crime victims for the board.

2. The sheriff's staff person, called the claim investigator, will distribute the most current applications, receive, process, and forward them to the board office in a timely manner.

#### **C. Board Staff Responsibility**

1. Check distribution will be as follows:

a. Provider checks will be issued directly to providers from the board office.

b. Victim/claimant checks will be mailed directly from the board office unless the sheriff specifies that he

wishes to have them mailed directly to the sheriff's claim investigator for personal distribution.

#### **D. Appeals**

1. If an application is denied and the victim/claimant desires to appeal the board's decision, the victim/claimant must file the appeal within 60 days from the date of the denial letter.

2. The appeal letter should furnish the board with any new information not yet provided that the victim/claimant desires to have presented.

3. The appeal will be scheduled for the next available agenda.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 46:1801 et seq.

**HISTORICAL NOTE:** Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, Crime Victims Reparations Board, 539 (May 1994), repromulgated LR 22:710 (August 1996).

## **Chapter 5. Awards**

### **§501. Payment of Awards**

A. Only verified expenses can be reimbursed.

B. Verification of Claimed Expenses

1. Each type of claim form used by the board should identify the documents that must be submitted by the victim/claimant to support and verify a claimed expense.

2. When applications lack documentation necessary for a decision or award in total or in part, and adequate effort has been made to acquire that information, the application will be placed on an agenda and the decision and award will be based on that information available. Should the formerly sought information become available, a supplemental application can be filed.

C. Awards to eligible victims or claimants for expenses incurred but not yet paid may be made payable directly to the providers.

D. All checks to providers when paid at less than the full balance owing are marked "paid in full."

E. If a provider refuses a board check, the check will be reissued to the claimant for the same amount as approved.

F. In those instances in which:

1. an application has been approved for an award; and
2. payment is being made directly to the provider; and
3. the check either has not been sent or has not been negotiated by the provider; and

4. the claimant notifies the board that he has paid the bill, upon verification and return of the check, the check will be voided and reissued for the same amount to the claimant.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 46:1801 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, Crime Victims Reparations Board, LR 20:539 (May 1994), repromulgated LR 710 (August 1996), LR 24:328 (February 1998).

### §503. Limits on Awards

#### A. General

1. There will be a \$10,000 cap for awards for all victims with the exception of those victims whose injuries are both total and permanent. For those applications, the board may, at its discretion, award up to \$25,000 depending on availability of funds, lack of collateral resources, and the showing of necessitous circumstances.

2. All applications filed as the result of the death of a victim will be assigned one claim number with the deceased listed as the *primary* victim. Each additional claimant and/or *secondary victim* must submit a separate application with the appropriate claim form(s) and supporting documents. The aggregate claims arising out of the same crime will be subject to the maximum amount authorized by law.

#### B. Attorney Fees

1. The board does not reimburse victims for fees charged by an attorney to prepare an application or represent the victim in any way unless the fees result from a hearing ordered by the board.

2. Those reimbursable charges are set at a maximum of \$50 per hour for a total of five hours or \$250.

3. The appeals process does not constitute a hearing. Thus, any fees charged by an attorney to represent a victim/claimant at an appeal are not compensable.

#### C. Funeral Expenses

1. The board will reimburse up to a maximum of \$3,500 to cover reasonable expenses actually incurred for the funeral, burial or cremation.

2. Death and/or burial insurance taken out specifically for the purpose of burial must pay first. The amount of life insurance proceeds paid may be considered as a collateral source.

#### D. Lost Wages/Earnings

1. When lost wages are part of a claim, lost wages will be considered before out-of-pocket or other medical expenses are considered.

2. The inability to work must be directly related to the victimization and documented by the appropriate medical doctor. That medical opinion is subject to professional review and audit.

3. Violently assaulted victims who do not require medical intervention (i.e., doctor visit, emergency room treatment) will be allowed a reimbursable recuperation period:

a. if no sick time or other compensation is available, the board may grant up to five working days of lost wages;

b. wage verification by the employer is required.

4. The board may reimburse lost wages/earnings with a maximum of \$10,000.

a. the board will award up to \$320 per week based on net, after-tax, or take home pay;

b. if only gross income is provided, the board will award at 80 percent of gross up to the \$400 per week cap.

5. Vacation, annual, personal, and sick leaves, if available, shall be used by the victim during the disability period and are not reimbursable expenses.

6. If workers' compensation or other private disability/income protection insurance is available, those policies must be paid out first before the board considers a claim for lost wages.

7. If a victim does not return to work, the lost wage period will be no longer than one year.

8. If a person is not gainfully employed or is not receiving entitlement at the time of the crime, then no lost wages can be determined nor awarded.

9. Only the following list of physicians can legally determine physical disability:

- a. medical doctor;
- b. oral surgeon;
- c. psychiatrist;
- d. physiatrist;
- e. ophthalmologist;
- f. surgeon.

10. If a victim is initially treated by one doctor and that doctor refers the victim to another doctor, the referral doctor can determine disability from the date of the incident.

#### E. Loss of Support

1. For loss of support for a surviving spouse or other dependent to be considered, the following documentation must be provided:

- a. death certificate signed by the coroner;
- b. individual federal and state tax return for year before the crime to show dependency of claimant;
- c. employment/wage verification completed and signed by the victim's employer;
- d. verification of life insurance claimed by dependent filing application; and
- e. documentation that Social Security or other pension benefits are not available to surviving spouse or dependents.

2. Loss of support for a surviving spouse may be awarded at the discretion of the board when no other collateral resources exist and the inability to work exists or the opportunity to find work could be delayed due to age, frailty, and lack of previous work experience.

3. The board will reimburse loss of support with a maximum of \$10,000.

a. The board may award loss of support up to the maximum amount per week authorized for lost wages in §503.D.4. That amount is based on net, after-tax, or take home pay.

b. When only gross income is provided by a claimant, then the board will award the loss of support at 80 percent of the amount authorized in §503.D.4 for lost wages.

#### F. Ambulance

1. A maximum of \$300 for regular ambulance transport. A maximum of \$500 exists for air medical transport.

2. Air transport services are considered ambulance services and reimbursed as such.

3. The medical portion of the ambulance bill is to be considered as a medical cost and paid at the medical per cent consistent with all other claims for that claimant.

4. If the ambulance bill is part of the total hospital bill and the total hospital bill is under \$10,000, the ambulance transfer bills will be isolated and paid separately. If the total bill is over \$10,000, the ambulance charges will not be isolated for payment.

#### G. Medical Expenses

1. The board reserves the right to audit any and all billings associated with medical care. All treatment must be considered "usual and customary" and be directly related to the victimization.

2. The board will not pay any interest, finance, or collection fees as part of the claim process.

3. The board will pay 70 percent of all outstanding charges after any third-party payment sources up to the statutory limits.

4. If the total outstanding charges exceed the case cap of \$10,000, then all providers listed in the claim will be paid out at that actual percentage those bills are in relation to the available case funds.

5. Out-of-pocket paid monies will be reimbursed to the victim prior to applying this payment schedule.

6. Psychiatric Inpatient Hospitalization. It is the opinion of the board that any psychiatric inpatient hospitalization required by a crime victim would be very acute and crisis management in scope. Compensation for such care will require a peer review as described in ' 503.I.3.

a. The board will not reimburse for more than seven days of psychiatric inpatient hospitalization at a cost of no more than \$500 per day. This is intended for an acute

hospitalization with the goals of emotional stabilization and placement in outpatient treatment.

b. The board will not reimburse more than one psychological evaluation (as defined in ' 503.I.5).

i. the board will not reimburse for any intake evaluation or psychological testing;

ii. the board will not reimburse for any more than one in-patient treatment, group or individual, per day. Support or family day sessions and "community" meetings are not reimbursable;

iii. all provider/therapist's charges are reimbursed at the same hourly rate as out-patient mental health services, that is:

(a). M.S./M.S.W (L.P.C./B.C.S.W.): \$60/hour;

(b). Ph.D./M.D. (Board Certified): \$75/hour;

(c). Group therapy: \$25/session.

c. Therapeutic groups outside the per diem charge of the hospital will not be reimbursed.

d. All therapist charges that are outside the per diem charge of the hospital will be limited to no more than one session per day at a rate described in ' 503.I.8.

7. Only those medicines and drugs prescribed by a licensed physician are compensable.

8. Reimbursable providers include licensed medical doctors, dentists, eye doctors, chiropractors, osteopaths, pediatricians, psychiatrists, psychologists, physical therapists, etc.

9. Compensable medical services include emergency ambulance service, medical examinations, x-ray and laboratory services, whirlpool baths ordered by a doctor.

10. Only services of a nurse as prescribed by a licensed physician are compensable.

11. Aids such as hearing aids, false teeth, eyeglasses, contact lenses, crutches, and wheelchairs needed as a direct result of the crime or that were damaged or destroyed during the crime are compensable.

H. Travel Expenses. Transportation costs other than the initial ambulance services are reimbursable only when required medical care is not locally available. Certification is required by the physician of record that local medical care is unavailable. Allowable private vehicle mileage for out-of-town travel is reimbursed at the rate published in the current state travel regulations.

#### I. Mental Health Counseling

1. It is the board's opinion that the majority of those directly victimized by violent crime (e.g., *Primary Victims*) can obtain significant improvement within the first six months of qualified counseling. The board recognizes that short-term crisis management counseling may also be needed for *Secondary Victims* (defined as primary family members or cohabitators of the victim).

2. Reimbursement of mental health services is limited to six months from the date of the first visit or after the first 26 qualified sessions/groups (whichever comes first).

3. Cases which extend beyond the allowable time limit will be subject to a peer review by a psychiatrist or psychologist, licensed by the state of Louisiana, consulting with the board. Peer review will involve an examination of the following:

- a. complete progress notes for crime-related conditions(s) being treated;
- b. any psychological evaluations/testing pertaining to the crime-related condition;
- c. description of prior conditions or treatments;
- d. current treatment and treatment response to date; and
- e. updated treatment plan.

4. For the life of each case, reimbursable charges may not exceed \$5,000 for Primary Victims and \$2,500 for Secondary Victims. These limits include the cost of all treatment services and psychological evaluations/testing as described in ' 503.I.8.

5. Psychological evaluation/testing may not exceed \$300. Any evaluation/testing must be conducted by a licensed psychologist and should include the following:

- a. description of any structured interview used;
- b. description and results of testing administered; and
- c. case formulation and DSM-IV diagnoses.

6. Treatment plans completed by the therapist of record (or primary therapist) are required for consideration of mental health expenses. The therapist must show that the psychological condition being treated is a direct result of the crime. Treatment plans must be fully documented in a "problem" and "intervention" format. Detail must be provided for both symptom and intervention. Single word descriptors such as "nightmares" or "supporting counseling" will not suffice. Insufficient treatment plans will be returned to the therapist and the case may be deferred or denied until revised.

7. All payments for services are subject to review and audit by the board.

8. Only physicians, psychiatrists, state-certified or state-licensed psychologists, licensed professional counselors, or board-certified social workers are eligible for reimbursement. The rates for reimbursement shall be:

a.	M.D./Psychiatrists	\$75/hour
b.	Ph.D. or Psy.D. Licensed Psychologists	\$75/hour
c.	Licensed Professional Counselors	\$60/hour
d.	Board-Certified Social Worker	\$60/hour
e.	Group Therapy Rates (90 minute minimum sessions)	\$25/session

9. It is the board's assessment that psychiatric inpatient hospitalization of crime victims is rarely required. If under unusual circumstances such treatment is required, compensation will be subject to a peer review as previously described. Reimbursement for such treatment is limited in amounts and procedures listed under "medical" services.

10. Any claim for injuries sustained may be denied if prescribed or preempted as a matter of law.

#### J. Catastrophic Property Loss

1. A maximum of \$10,000 may be awarded if a victim's abode is owned and the abode/contents are destroyed by criminal act.

2. This must produce a "verifiable" overwhelming financial effect for that person.

3. This is considered when no insurance exists or the ability to rehabilitate the structure is precluded due to lack of personal resources.

#### K. Vehicular Incidents

1. Eligible expenses include those resulting from death or personal injury as outlined in the statute if they are incurred resulting from DWI or hit and run offenses, fleeing felon incidents, or injuries intentionally inflicted with a motor vehicle, boat or aircraft.

2. Vehicular accident related injuries, other than those caused by the above are not compensable.

#### L. Child Care Expenses

1. A maximum cap of \$1,000 exists for eligible child care expenses.

2. The board may award up to \$50 per week per child, up to a maximum of \$100 per week per family.

3. The service provider need not be licensed; however, if the provider is not licensed, the board will pay up to 50 percent of the standard rate.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 46:1801 et seq.

**HISTORICAL NOTE:** Promulgated by the Office of the Governor, Crime Victims Reparations Board, LR 20:539 (May 1994), amended LR 22:710 (August 1996), amended LR 24:328 (February 1998), LR 25:26 (January 1999).



# **Title 22**

## **CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT**

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